NATIONAL MUNICIPAL REVIEW

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VIEWS AND REVIEWS

I

THERE are now nineteen societies and committees enlisted with us for our Moot State Constitutional Convention at Cleveland, December 29–31. Some of the organizations are split already over the texts of their proposed drafts and so cannot submit them for advance printing in this issue. In such cases, we ask—Is this a private fight? or can *any*body get in?—and encourage the submission of majority and minority reports so as to carry the battle to the floor. Even a committee of one has appealed for permission to submit alternative proposals, because he finds difficulty in making up his mind! The radical proposals of the Short Ballot Organization alone furnish enough that is provocative of debate to fill two days. There will be scores of red-hot scrimmages, the police reserves will be stationed in the lobby and—or such is the private prayer of the program committee—blood, real red blood, will be spilt upon the velvet carpets of the Statler!

II

THE November elections were unusually interesting for an off year. Governor Coolidge's avalanche in Massachusetts against an opponent who pussy-footed and winked to labor was refreshing and indicated again that the labor element is not as class conscious in politics as the radicals like to imagine. A Brooklyn county candidate and a governor of New Jersey gained visibly by denouncing prohibition and are probably the forerunners of a large and curious crop of "wet" candidates next year, for the frequent appeal to discontent in politics succeeds less from hope of remedy than from the sense of sympathy which is the base of all influence. Ashtabula and Kalamazoo again moved smoothly through proportional representation elections, that in Kalamazoo being especially interesting. Illinois and Nebraska elected constitutional conventions without much emotion. Illinois in its advisory vote supported the initiative and referendum. Philadelphia elected an honest man as mayor under the new simplified charter. New York, thanks largely to the fact that Mr. Hearst was anti-Tammany this year, put two Republicans with five votes out of sixteen into the board of estimate to fill casual vacancies. Dayton, without a serious struggle, continued its good administration undisturbed for another two years, making a total of eight years. On the whole it was a good day for reformers.

III

HERE LIES RECONSTRUCTION

'Twas a short life and a wobbly one!

Reconstruction never did mean anything. The definition which our Rochester resolutions gave of it was as good as any, and the only one that restricted itself to special post-war conditions, but it remained merely our own. All sorts of projects were launched in the name of reconstruction. The most promising were the two bureau of municipal research schemes for state administrative consolidation in Delaware and New York, and while both were worked under the name of reconstruction, they have nothing to do with it except by a stretching of the word far out of its meaning. The fact is we suffered so little destruction that there was nothing much to be reconstructed.

We know that reconstruction is dead, anyway. For the League for Longer Hotel Bed-sheets two years ago wrote us—we being in both the blue book and the directory of directors—saying, in effect, that longer sheets would win the war. Last year it asked us "if our boys coming back after having bled and died 'over there' will be content hereafter to risk their health with the evils of short sheets? Longer sheets are a vital factor in reconstruction!" And now the annual appeal comes again and reconstruction is not mentioned. Requiescat!

What's the word now? Oh you know. Don't look so innocent! You're working it yourself—"longer bed sheets, bringing better comfort and sleep to those who toil, constitute the best antidote to the insidious poison of bolshevism which unless checked—"

IV

The house of representatives passed the Good budget bill with only three dissenting votes. How absurd we all were to have fought all over the map for years ever since Taft's time when there must have been an easy majority ready to support the principle for the last several years! Or is Congress perhaps no better than legislatures and councils that hide behind committees and floor strategists and avoid a show-down, getting the pork up to the last moment until the walls tremble with the clamor from outside—and then at last the record vote that cannot longer be staved off, a string of speeches (undelivered) with "applause" and "laughter" written in by the authors, to decorate the congressional record and to mail to constituents, an overwhelming vote—where is all that stubborn opposition anyway! Are we to believe that those three members could have held us up so long!

So it was with the parcel post and various other progressive proposals that waited years, even generations, for a fatal clean-cut record vote!

All honor to those three lone budget opponents! Would that we had more honest Tories! We don't mind representatives who flatly disagree with us, and tell us so, half as much as that slippery type who appear to want just what we want, but never seem to get it for us.

TWENTY-FIFTH ANNUAL MEETING

OF THE NATIONAL MUNICIPAL LEAGUE

To be Held at the Hotel Statler, Cleveland, Ohio, December 29, 30 and 31

PROGRAM

Monday December 29—10 A. M. AND 2 P. M.
MOOT CONSTITUTIONAL CONVENTION

Presentation and explanation of all proposed provisions. Questions and five-minute speeches from the floor. No voting except such trial votes by show of hands as authors of amendments may request for their own guidance. Matters on which no opposition appears may be declared by the chairman, after warning, to be adopted, and will be omitted from the calendar on Wednesday.

1. Bill of Rights
   Committee of One, Albert Bushnell Hart
2. Governor and Legislature; single house; state manager
   By the National Short Ballot Organization
3. Proportional Representation
   By Proportional Representation League
4. Budget
   By Govermental Research Conference
5. Judiciary
   By American Judicature Society
6. Civil Service
   By National Civil Service Reform League
7. Municipal Government
   By our Committee on Municipal Program
8. County Government
   By our Committee on County Government
9. Initiative and Referendum
   By National Popular Government League
10. Taxation
    By our Committee on Taxation
11. Debt Limitations
    Committee of One, A. N. Holcombe
12. Legislative Procedure
    Committee of One, H. W. Dodds
13. Limitations on Legislation
    Committee of One, Charles A. Beard
14. Elections and Suffrage
    By Honest Ballot Association
15. Labor
    Committee of One, Joseph P. Chamberlain
16. City Planning and Excess Condemnation
    Committee of One, Frank B. Williams
17. Amendments
    Committee of One, Herman G. James

Topics not yet assigned: Education, Public Utilities.

7 P. M. SUPPER AND SMOKER
Election of New Council

Tuesday December 30—10 A. M. THE FATE OF THE FIVE-CENT FARE
Report of the Committee on Public Utilities, Delos F. Wilcox, Chairman
One-man cars, zone fares, standards of valuation, extensions by assessment on property benefited, use of public credit, discussed by Peter Witt, Alfred Bettman, Walter Jackson, Carl H. Mote

1 P. M. LUNCHEON
The Secretary's Annual Review

3 P. M. With Political Science Association and Governmental Research Conference

7 P. M. UNIONIZATION OF MUNICIPAL EMPLOYEES
Luther C. Steward, President National Federation of Federal Employees, A. F. of L. and other speakers

THE NATIONAL BUDGET BILL
Hon. James W. Good, Chairman Appropriations Committee, House of Representatives and representatives of National Voters League, National Budget Committee and Institute of Government Research

Wednesday December 31—10 A. M. AND 2 P. M.
CONSTITUTIONAL CONVENTION
Presentation of Constitutional Provisions for adoption under parliamentary law.

8 P. M. LANTERN LECTURE
War Memorial Buildings. H. G. Otis, Bureau of Memorial Buildings, War Camp Community Service

THE OLD ORDER CHANGETH

Chicago voted on November 4 to make its ballot non-partisan in municipal elections.

* * *

New city-manager cities:

Muskegon, Michigan, 36,500.
Sallisaw, Oklahoma, 2,500.
Walters, Oklahoma, 1,600.
Lynchburg, Virginia, 20,000.
Newport News, Virginia, 20,000.
Pittsburg, California, 7,000.
Tallahassee, Florida, 6,500.
Sanford, Florida, 7,000.
West Palm Beach, Florida, 10,000.

* * *

The total number of charter city-manager cities of over 10,000 population is now 49; of smaller places, 57.

Towns and cities having city-manager plan in modified form or by ordinance, 59.

Total, 165.

* * *

Plan B of the optional charter law, a simple mayor-and-small-council plan is spreading in Massachusetts.

Gloucester, Newburyport and Everett adopted it last month.

It failed in Lowell and Northampton.

Westfield and other places are considering it.

* * *

An official commission in Ohio is at work on 'state administrative consolidation,' and the taxpayers' association of New Mexico has created a strong committee on the same subject for that state. Governor Smith of New York will give the administrative consolidation plan of his reconstruction commission vigorous backing when the legislature assembles in January.

* * *

A committee representing twenty-five civic organizations in Cleveland, after two years of study, has recommended the adoption of our model charter—city-manager and proportional representation.

* * *

Lima, Ohio, has elected a charter commission pledged to the city-manager plan.

LOCAL GOVERNMENT BOARDS IN CANADA

BY J. N. BAYNE

Member, Local Government Board of Saskatchewan

For twenty years American political scientists have seen hope in the principle of flexible state administrative supervision over municipal finance as a substitute for legislative interference and modern limitation, in line with the famous British local government board. In the last six years such boards have developed widely in Canada. ::

I

For many years Great Britain's Local Government Board has controlled the creating of debenture issues by municipal institutions. In Canada municipal administration comes under the jurisdiction of its nine provinces. Hence any local government board which may be brought into existence will have its powers delegated to it by a provincial legislature.

Until a few years ago each municipality in Canada decided for itself, usually by a vote of its electors, or by special statute, whether or not a permanent loan for capital expenditure should be made. Central authority over borrowings of the kind was seldom exercised. In the province of Ontario, however, the railway and municipal board has for some time held a right to exercise a limited supervision over the creating of a permanent debt on the part of a municipal institution. In December, 1913, the Province of Saskatchewan, at a session of the legislature which closed that month, made provision for the establishment of a local government board. The Province of Alberta in less than two years afterwards organized a public utilities commission which is much the same as Saskatchewan's local government board in so far as its relationship to local authorities is concerned. The provinces of Quebec and British Columbia soon after assumed, to a degree, like control of municipal borrowings.

As already intimated, where a local government board, or a body vested with similar powers, has been brought into being, it is not under federal control. Where such scrutinizing bodies exist throughout Canada there are points of dissimilarity.

This provincial central supervision is approved generally by the people of the various provinces in which these bodies exist as a safeguard against local aspirations and ambitions which sometimes have led too near to the danger point.

II

The remarks which follow refer particularly to the local government board of the Province of Saskatchewan as it is, naturally, the one with which the writer is most familiar. It is, so far, the only body of its kind in Canada using the title "local government board." Its functions are thus more easily understood by those already familiar with the term. It came into existence at the beginning of 1914. It consists of three members selected by the lieutenant-governor in council, and the removal from office of any member thereof is by decision of the legislature. The board is a commission, non-partisan and

non-political. Each of its members holds office for ten years. The demand for an organization of the kind came largely from the Union of Saskatchewan Municipalities, which is an association consisting of representatives of cities, towns and villages of the province. A few urban municipalities, during a period of unusual activity in real estate, had borrowed somewhat excessively notwithstanding the fact that the proposals for such heavy loans were in nearly every case zealously and almost unanimously supported by the council and the electors of the community concerned, they seeing in too rosy a light the future of their respective municipalities. In no case, however, was repudiation of the debt contemplated. No instance of the kind is in the history of Saskatchewan's municipalities. The local power to undertake financial burdens was sometimes used too freely. Hence the desirability of a central body who would investigate and control, in the light of experience gained by other municipalities of the province, any proposal to borrow money by debenture. The additional examination by the board of the reasonableness and feasibility of undertaking a debenture issue gives to the prospective investor an increased feeling of confidence in the issue, for he knows that if approved it will not be the result of a hastily constructed program nor of hopes based on a flimsy foundation. It might here be stated that the law provides that "there shall be associated with the board for advisory purposes a committee consisting of two members to be appointed annually, one by the executive of the provincial organization representing rural municipalities and the other by the executive of the provincial organization representing urban municipalities. The duties of the committee shall be to confer with the board from time to time concerning matters of general interest in relation to the carrying out of the local government board act."

As already stated, the local government board of Saskatchewan approves or rejects all proposals to borrow money by debenture on the part of the 7 cities, 75 towns, 320 villages, 300 rural municipalities, over 4,200 school districts and a large number of rural telephone companies in the province. It will likewise perform similar duties in respect of "hospital districts" which recently came into existence, but none of these have, so far, attempted the issue of debentures. It is conceded that the board, with knowledge secured in dealing with nearly all local authorities, should be in a better position to take a wider view of the municipal and financial situation than any single local authority.

One result of the board's existence is a higher price paid for municipal securities. The intending purchaser, in more than one instance, has asked for a special audit of the books and records of the local authority about to issue debentures, but on learning of the existence of the local government board and its functions, has deemed the examination of the latter sufficient and has purchased the debentures with an added feeling of confidence. It is true that sometimes, when a municipality's elaborate program is curtailed by the local government board, a feeling of disappointment results, but the passing of time shows the wisdom of learning to walk before attempting to run. In its five years of existence any reductions decided upon by the board have proved to be in the interests of the citizens directly affected. In the case of one large urban municipality in the province, whose program included what the board deemed

to be non-essential and inadvisable, particularly at a time when labor and material are possibly at the maximum of cost, some of its officials expressed themselves as believing that the local government board should have control only over rural or junior municipal institutions. This sentiment is, however, not common, nor is there real justification for its existence. It is a fact that the too optimistic outlook of urban or senior municipalities was a cause for the existence of the local government board, for had our province consisted only of rural municipalities and villages, it is not likely that it would have been established. To those who have seen the urban center develop rapidly, it is apparent that a cooling or deterring influence is often desirable.

III

Among other duties assigned to it, the local government board hears and adjudicates upon appeals from the local courts of revision in respect of assessment valuations. Its services in this regard were called upon oftener while values were falling, but as they have now reached a more settled level, the local government board had not many appeals of the kind to hear during the current year.

Saskatchewan's law guards carefully the sinking fund of any local authority or municipality. Villages, rural municipalities, rural telephone companies, rural school districts and hospital districts are not empowered to borrow under the sinking fund plan. In respect of cities and towns the provincial statutes state:

> No part of the moneys at the credit of the sinking fund account shall be invested in any securities, whether by the council itself or by sinking fund trustees, without the previous approval of the local government board to such investment.

The serious duty of keeping the sinking fund intact and free from danger of any kind is rigidly observed by the local government board. Any proposed investment thereof receives particular vigilance.

Another duty of the local government board is the administration of the Sale of Shares Act. Before any company can offer for sale its shares, stock or bonds, in Saskatchewan, it must first secure authority for such action from the local government board which makes a close investigation into the strength and standing of the company. In those cases where it is found that the shares will not probably yield a reasonable return to their purchaser, approval of the sale of such shares is withheld. The wild schemes so often rampant where, for instance, mines, imaginary or otherwise, are exploited, need a firm restricting hand. The average person, when approached by a stock salesman, has neither time nor opportunity to examine fully the financial status of the company concerned. Hence the investigation of the standing of the company by the local government board is conceded to be a genuine protection for the public.

THE FATE OF THE FIVE-CENT FARE

VIII. DETROIT—A TALE OF DISTRUST

BY EDWARD T. FITZGERALD

Every city's situation is difficult, and every city's situation is different but as these stories are told, the cases of 'procrastinate and let the corporation squeal and the service deteriorate' are beginning to have a familiar sound. :: :: :: :: :: :: :: :: :: ::

"DETROIT is still hanging by its gills," in a transportation way. It has a population of approximately one million, with a street railway system grievously inadequate for a city of that size. It has been engaged in a warfare with the company for more than a score of years, yet to-day the city possesses no efficacious means of compelling the service or the building of extensions which its rapid growth requires.

Recently the city was without street car service for five days, when the company's employes struck for increased wages which the company claimed could not be granted with the increase of fare which had been allowed by the city. The city's offer was the abolition of eight for a quarter workingmen's tickets on all lines and the suspension of the eight for a quarter tickets on about sixty-five miles of the system, leaving a straight five-cent fare during twenty-four hours of the day. The company held out for additional revenue to be supplied through the charge of a penny for a transfer.

The strike was finally settled when the men were given their increase and the company ordered to resume operation of its cars by Judge Marschner, of the circuit court, the city agreeing to arbitrate the question of a charge for transfer with a board of three members.

The Detroit United railway, which operates the local system and a suburban system as well, has a total trackage of approximately nine hundred miles, of which one-third comprises the city system. On the greater part of the city system its franchises have expired, and it is operating on what might be called a franchise of "public necessity," which, while sufficient to keep the wheels turning, does not permit of extensive borrowing of capital to develop the lines in accordance with the city's needs.

Some idea of the situation in which the city finds itself may be obtained from the statement of President Frank W. Brooks of the railway company, made during a conference with the city authorities some months ago, when he announced that approximately $12,000,000 would be required to put the local system into the shape that it should be. For this condition a part of the public blames the Detroit United railway. The company and its supporters place the responsibility for the warfare that has existed for nearly twenty-five years on public officials and the press. The company charges that it has been harassed and hampered so that it has been impossible to borrow the necessary capital to provide an adequate transportation system, and that it has been the "football of politics."

While it is true that the street railway company has been the issue in numerous political campaigns for a score of years, and that the public generally has been hostile, the weight of evidence is against the Detroit United railway.

Its history in Detroit has been marked by a lack of tactfulness and courtesy which has built up such an antagonism that the public has grown to believe that anything the company seeks in the way of innovations, such as the skip-stop, etc., is a bad thing for the city.

Moreover, the Detroit United railway has pursued a policy that has not been conducive to popularity. It has said "no" to suggestions that would have been of mutual benefit to company and city. Its officers have been inaccessible to public officials and newspapers during the controversies which have so frequently arisen. The result has been a distrust of the company's motives.

As proof of the fact that Detroit is not a corporation-baiting city, the case of the Detroit Edison company is frequently cited. The Edison company has the confidence of the entire city. Its policy has been to accommodate rather than to antagonize. When it makes a request for increased revenue, it is always sure of getting it, for the reason that its administration has been straightforward, its service excellent, and, under the splendid management of Alex Dow, the public has learned by experience that the company is a public service corporation in the true sense of the word.

So much for the reputation which the Detroit United railway possesses, and the lack of transportation facilities.

A better understanding of the local situation can be obtained by considering the various attempts to settle the street railway "problem," as it has been termed, during the years of battling between the traction company and the municipality.

Since 1906 four street railway settlement plans have been submitted to the voters of this city. Two of these were franchise propositions, and the others, purchase plans. In addition, franchises for the construction of eleven extensions in various parts of the city, were submitted at another time. An affirmative vote of 60 per cent of the electors balloting, would have been necessary to adopt any of these plans. Yet not one of them received even 50 per cent of the city's vote.

The franchise propositions were beaten overwhelmingly, and though the city in 1913 voted better than four-to-one for municipal ownership of the street railway system, on the two occasions when municipal ownership purchase plans were submitted to the voters, the plans received only 47.6 per cent of the votes cast.

In justice to the so-called settlement plans and the men who sponsored them it must be said that all had merit, and had any one of them been adopted, the city would be in a better shape to-day than it is.

Likewise all of them had defects. They were give and take propositions. The opposition to all of them was, in the main, political. The Democrats opposed plans put forward by the Republicans. The Republicans were out with an axe for the Democratic inventions. All of the plans were misrepresented by their opponents, and the voter, confused in the haze of statements and mis-statements, decided to play safe and vote "no," with the result that conditions became steadily worse.

The most recent settlement plan was submitted to the voters by Mayor Couzens and the board of street railway commissioners, in April of this

year. It provided for the purchase by the city of the local system for $31,500,000. It was not a perfect plan, and its sponsors did not claim that it was. In fact, it can hardly be expected that any plan which grants everything to one side will ever be agreed to by both. Thousands of dollars were spent to defeat it by anonymous sources. It met the same fate as its predecessors, permitting Detroit to continue "hanging by its gills."

Strong proponents of municipal ownership insist that a municipal ownership condemnation plan would have received adoption by the voters, but in the opinion of the mayor and the board of street railway commissioners, this plan would have cost the city more than an out-and-out purchase agreement price. Many other persons ascribe the defeat of the recent purchase plan to a falling-off in sentiment as regards public ownership caused largely by the government operation of the wire and rail properties.

Following the defeat of the purchase plan in April, no further discussion was given to an adjustment of the traction difficulties until the strike precipitated a crisis. In accordance with the court's order, an arbitration board of three members was appointed to determine whether the company is entitled to additional revenue. This board has not yet reported its findings.

Simultaneously with the appointment of the street railway arbitration board, the board of street railway commissioners was directed to make recommendations for a rapid transit system to the common council. After several weeks of effort during which the board had at its disposal the services of street railway engineers, the commissioners presented a report recommending the construction by the city of a system of subways for the downtown district through which the surface cars were to be run. The plan was similar to that proposed for Cleveland and the tubes were to be so constructed that they could later be used for regular subway train service when such an extension of the service was deemed advisable.

The report of the street railway board further recommended that the city enter into an arrangement with the Detroit United railway for operation of its cars under what the board termed the "rides-at-cost" plan. The plan suggested is similar to the Tayler service at cost arrangement, now in operation in Cleveland and elsewhere in modified forms.

Although the street railway commission was appointed by Mayor Couzens, the latter entered a vigorous protest against the commission's recommendations with the result that the commission resigned. Five out of nine members of the common council stood by the commission's report and by resolution directed that the railway board confer with the Detroit United railway officials with the idea of agreeing on a rides-at-cost plan, which it was hoped, might be submitted to the voters for ratification at the April election. The mayor, however, blocked negotiations with the company by vetoing the council's action and inasmuch as six votes were required to over-ride the executive veto, the proponents of the rides-at-cost plan were defeated.

The mayor defends his position by insisting that the charter instructs the administration to proceed with steps toward municipal ownership of the street railway property. He proposes instead of the rides-at-cost plan, that the voters be asked to authorize the issuance of bonds to the amount of $15,000,000, at the election next April, out of which new extensions will be built by the city. At the same election he suggests that a referendum be

taken as to whether or not the people wish their officials to negotiate with the street railway company on the basis of the Tayler or rides-at-cost plan.

Three out of four of the Detroit newspapers are supporting the rides-at-cost plan, while the fourth is standing behind the mayor. Apart from the fact that a three-fifths majority is required to carry any plan that may be submitted, the chances for a speedy settlement of Detroit's transportation troubles are rather slim because of the inability of the city officials to agree on any one plan.

It is more than a score of years ago since efforts were first made to cure Detroit of its traction ills. The patient is not improved. In fact he is much worse. And whilst city officials are wrangling today over the remedy, the Detroit United railway continues to crowd passengers into cars in such a manner that were the passengers cattle, the humane society would probably interfere.

SANDUSKY AND THE MANAGER PLAN

BY AUGUSTUS R. HATTON

Dr. Hatton has recently visited seven typical cities having the city-manager plan of municipal government and we expect to carry the story of his findings in the "Review" from now on. Sandusky is important because it is one of the towns from which accounts were persistently disturbing and conflicting. :: :: :: :: :: :: ::

Sandusky, Ohio, began to operate under the manager plan in January, 1916. Shortly thereafter rumors began to be heard of trouble between the city-manager and the commission, of disagreements between the commissioners, and of the highly sensational newspaper exploits of one commissioner in particular. It was evident, even to those who observed from a distance, that the governmental boat of Sandusky was being rocked rather violently. With intermissions of comparative calm, this condition prevailed for nearly two years, after which nothing was heard of trouble in Sandusky. Since April, 1918, the government has proceeded on an even keel, the machinery has been working smoothly and appears to have been handled intelligently. The story of Sandusky may now be told with a reasonable assurance that it will not have to be supplemented the next morning by a new chapter recording some striking change.

A SLOW START

Under the Ohio constitution municipal elections for the choice of officers can be held only in the odd numbered years. For that reason new city charters under the home rule provision of the constitution provide for the election of officers in November of such years and that the charter shall go into operation on the first of January following. Thus Dayton and Springfield began to operate under the manager plan in January of 1914. Sandusky came under the plan, along with Ashtabula and Westerville, in January, 1916. In the process of framing and adopting a charter there can be no complaint in Sandusky on the score of lack of deliberation. The commission to frame a charter was chosen on July 30, 1913. The new

charter was submitted to the voters on July 28, 1914, only two days short of the extreme limit allowed by the constitution for that purpose. After the adoption of the charter in July of 1914 an election could not be held under it until fifteen months later and it was seventeen months after its adoption before the charter went into operation. During all that time a government which knew that a sentence of extinction had been pronounced against it, continued in control of city affairs while certain politicians and other irreconcilable opponents of the new charter had time to recover from the blow that had been given them at the polls and to make it as difficult as possible for the new government to go into operation smoothly.

The Sandusky charter provides, except with a few variations, for what has come to be regarded as practically the standard-manager plan. There is a commission of five members chosen from the city at large for four-year terms and on a non-partisan ballot. After the first election, provision was made that the commission should be partially renewed every second year. Nomination for the commission is by petition of 5 per cent of the voters, and from the list thus made up the candidates, equal to the number of places to be filled, who receive the highest number of votes, are declared elected. The recall is provided in a somewhat awkward but not unworkable form. There is also provision for the initiative and referendum. The commission chooses one of its members as president and appoints a city clerk, a city solicitor and a city treasurer who is head of the department of finance and audits. The city manager, chosen by the commission and holding office at its pleasure, makes all other appointments in the executive service of the city.

TROUBLE BEGINS

While there are details in the Sandusky charter which could be changed to advantage, it must be admitted that there is nothing in the document itself which directly accounts for the trouble which later developed. In fact, the first commission elected under the charter was a promising one. With one exception it was composed of men of ability and public spirit who might reasonably have been expected to give the new plan of government a fair and favorable trial. The one exception was a newspaper man who, shortly after he took a place on the commission, started a weekly sheet of his own. This sheet, while ostensibly solicitous of the public interest, was used chiefly to discredit the manager plan and certain persons in Sandusky and as a means of exploiting the over-developed ego of its editor. Even with such a trouble maker on the commission, the difficulties which followed would not have occurred but for an entirely unpredictable situation which arose between two other members. These commissioners were the two from whom, perhaps, the people of Sandusky had a right to expect most. Individually they were among the ablest and most respected business men of the city. Placed together on the commission they proved to be so temperamentally incompatible that it was next to impossible for them to work with each other. The quarrels, bickerings and disagreements of these two were seized upon with gusto by the editor-commissioner and were used in an attempt either to discredit the manager plan or to control it.

Any man serving as city manager in Sandusky during the initial period of the experiment must have possessed unusual qualities of training, character and leadership to have weathered the

storm and emerged unscathed. The first manager appointed was an out-of-town man with good training as an engineer, high ideals of public service, and considerable vision as to what a city could and should be. He soon found himself entangled in the broil going on in the commission, the disturbing member of which, in the course of time, made the manager a special object of attack. In spite of the manner in which he was hampered, he continued on the job. At last the commission virtually gave him a vote of lack of confidence by reducing his salary. He still stuck, hoping to wear down the difficulties placed in his way and to prevent a purely political appointment which he feared would be made in case he should give up. He was finally dismissed by the commission.

THE SECOND MANAGER

The second appointment of a manager was not reassuring. The man chosen was a citizen of Sandusky, a druggist by profession, and a former mayor of the city under the old government. Although a good citizen, reasonably successful in his own business, no one pretended that he had any special qualifications for the office of city manager. Moreover, his former election as mayor upon a party ticket gave color to the belief that the new plan of government was gradually descending into partisanship. It is not strange that, with the wrangling in the council, the dismissal of the first manager and the appointment of another not conspicuously fitted for the place, together with the accusations and shoutings of the paper conducted by the editor-commissioner, a considerable portion of the people of Sandusky were bewildered, dissatisfied and disgusted.

Early in 1917 an initiative petition, fathered by the editor-commissioner, was circulated proposing an amendment to the charter which would have eliminated the manager plan. Through some defect either in the petition itself, or in the time when it was filed, the question of adopting the amendment was never presented to the voters. It is not improbable that had the question gone to the voters at that time, the manager plan would have been cast into the discard.

Gradually things began to improve. The two incompatible commissioners voluntarily retired and their places were filled by men who could work in harmony. The second manager did not turn out as badly as might have been expected. The power and influence of the editor-commissioner began to wane. The people were obviously growing tired of his clamor. At the regular municipal election held in November, 1917, the candidates for the commission supported by him were defeated. Soon thereafter, having sold his newspaper, he accepted a position in another city, resigned from the commission and shook the dust of Sandusky from his feet.

STRAIGHTENING OUT

Early in 1918 the second manager retired and in April was succeeded by George M. Zimmerman who had been serving as city auditor. Zimmerman, also a local man, had never been in public life until persuaded by the commission to accept the position of auditor. He had successfully conducted his own private business and performed excellent service for the city in bringing the accounts and finances into better condition. Not only the commission, but the citizens in general knew that Zimmerman was in no sense a politician. He did not seek

the position of auditor and was not a candidate for the position of manager. In asking him to become city manager, the commission was aware that he was a man who would not be content with an empty title, but that so long as he held the office he would expect to be manager in the sense indicated by the city charter. Moreover Zimmerman is a frank, straightforward capable person, a man who can be positive and decisive without being dictatorial or otherwise unpleasant. Since his appointment in April of 1918, the machinery of the city government has run with increasing smoothness until Sandusky can now be compared favorably with other manager-governed cities.

But what was happening to the city business during the two troubled years prior to the appointment of the present manager? Certainly no city official could be expected to be at his best while working under such conditions. It might reasonably be supposed that the business of the city had fallen into a chaotic state and that the decline in the quantity and quality of service to which they had been accustomed was obvious to the citizens. This seems not to have been the case. The service rendered by the city government appears to have been at least up to the standard of the old régime and most of the citizens questioned seem to feel that, even during the period of worst turmoil, the new city government was more effective than the old. The dissatisfaction prior to 1918 was due rather to the constant bickering, and the uncertainty which resulted therefrom, and the fact that the new government was not producing results as much better than its predecessor as had been expected, than to any feeling that the affairs of the city were less ably conducted than previously.

ACHIEVEMENTS AND DIFFICULTIES

Beginning with 1918, positive achievements may fairly be spoken of, and when achievements by an Ohio city are mentioned the disadvantages of the financial restrictions under which they all labor should be kept in mind. For although Ohio cities have home rule in most matters, this does not extend to local finance. Under the so-called Smith one per cent tax law and amendments thereto, the total possible tax levy in any city for all purposes is only a little more than one and one-half per cent. This levy, be it remembered, must produce all the revenue arising from general taxation for state, county, school and city purposes. To make matters worse, the decision as to what part of the total levy shall be allotted to the city is not in the hands of the city authorities. A county budget commission, which is beyond the control of the city, after taking account of the levy required for state purposes, apportions the remainder of the total between the county, the schools and the city. Under this arrangement any Ohio city may consider itself lucky if the rate allowed it even slightly exceeds one-half of one per cent. Whatever rate is permitted is levied uniformly upon all property assessed for taxation. In the past years Ohio cities have had no other considerable source of revenue except the liquor tax. But Ohio went dry in the middle of 1918 and as a consequence Sandusky, which had received $22,253.79 from that source in 1915, received only $10,780 in 1918, and in 1919 will receive nothing at all. One can readily appreciate what this means in a city where the total receipts from taxation, in 1918, other than the liquor tax were only $132,096.

The Sandusky city-manager experiment has been made in the difficult

war years from the beginning of 1916 to the present time. As compared with the great majority of Ohio cities working under the same financial handicaps, the record of Sandusky is very creditable. Take for instance the financial year of 1918. It was begun with a floating debt of $18,000 carried over from the previous year. In spite of this no deficiency notes or bonds were issued and the year was closed with the city free from floating debt. Moreover, a net reduction of $35,400 was made in the city debt chargeable against tax revenues. That is to say, bonds to the amount of $72,000 were retired and $36,600 in new bonds were issued—certainly not a bad record in these difficult times.

The record of the water department in 1918 is especially worthy of note. The water works is the only public utility owned and operated by the city. During 1918 wages in the water department were increased from 25 per cent to 40 per cent. The price of fuel rose from $3.62 per ton in 1917 to $4.40 in 1918 and, owing to war time restrictions on coal shipments, was of inferior quality at that. Nevertheless more water was pumped per ton of coal in 1918 than ever before. On January 1, 1919, the water works fund could report a surplus of $22,260 although the year 1918 was begun with a surplus of only $9,411 and a sinking fund charge of $38,148 had been met.

EXPENSES REDUCED—IN 1918!

Another thing pointed out with pride by the present administration is that, all departments considered, the city was operated for $2,000 less in 1918 than in 1917. These figures may appear petty as compared with millions glibly mentioned in New York, Philadelphia or Cleveland, but relatively they are large. It should be remembered that the total revenue from taxation of all kinds in Sandusky in 1918 was $142,876. Taking away the liquor tax, which has now disappeared, the revenue from general taxation shrinks to only $132,096 as has already been pointed out.

Naturally, during the war, public improvements had to be curtailed. Nevertheless, during 1918, a good showing was made. A considerable amount of new paving went down, sewer construction was continued and water mains were extended. The manager realizes that, with the present cost of labor and material and the rigid limitations of Ohio tax laws, the city must sail a careful course. He therefore recommended that, for 1919, no great amount of public work be undertaken.

It is noticeable that the advice of managers everywhere is more conservative than that of politically-chosen mayors. A mayor is here to-day and to-morrow he is not. He is prone to promise extensive improvements in order to boost his chances of election, for, at best, the promises of a mayoralty candidate made on the stump are not regarded as rigidly binding. They are in about the same category as the statements of the honest farmer made in a horse trade—to be considered as conditioned by the circumstances and ethical standards of that particular type of transaction. A city manager expects to go on through a period of years and his hope of doing so rests in no small degree on the proved soundness of his advice to the council. He must live with that advice and, therefore, it must be well considered.

In spite of careful handling by the present manager the chief problem immediately confronting Sandusky is financial. Since 1912 the bonded debt of the city, chargeable to general

taxation, has increased rapidly. On January 1, 1919, the total was $846,650. The oldest outstanding bonds were issued in 1892. Under the old régime practically no provision was made for a sinking fund and for the first two years under the manager plan no step was taken to correct this defect. As a result the city has about a half million dollars in bonds falling due within the next ten or twelve years with no accumulation begun to meet these obligations. Careful financial planning will be necessary, involving a well devised system of refunding designed to spread future payments evenly over a term of years. This sort of service to a city is not spectacular but it is fundamental. Cities cannot go on indefinitely accumulating debt and making no provision for its payment, nor can they continue to increase their debts out of proportion to their growth in wealth. In Sandusky there is every evidence that the new government is meeting its financial problems with ability and firmness.

What do the people of Sandusky think of their manager government now? So far as can be ascertained by careful inquiry they are pretty well satisfied. Old theoretical objections have all but disappeared. It is possible to get close to the new government. No one was found who described it as undemocratic. The manager is always accessible and the council is fairly representative. Most of the members of the council would be described as "business men" but there is one labor representative, and he a moderate socialist. The latter is proving a valuable member of the council, both in interpreting the government to the wage earners and by reason of his superior knowledge of some matters coming before the council.

A DANGER-POINT IN THE CHARTER

It is difficult to say to what extent the present fairly representative council is due to the scheme of nomination and election provided by the charter and how far it is to be credited to mere accident. Nomination is by petition and neither an elimination primary nor a preferential voting system is used. Every candidate in whose behalf a 5 per cent petition is filed gets his name on the election ballot, and the number to be chosen who receive the highest votes are declared elected. Of course there is no assurance that a council so chosen will reflect majority opinion, or that one faction or group will not elect all the members. With issues sharply drawn the latter would be pretty sure to occur. However, under ordinary conditions, it seems probable that some representation of the larger and more conscious groups will result. Such representation will neither be assured nor accurate but may, in most cases, be sufficiently evident to allay dissatisfaction.

There is now no discoverable dissatisfaction with the method of choosing the council. No one has alleged that it is unfair or responsible for any troubles that have arisen. However, if one were given to prophecy, his reputation in that regard would probably be secure if he foretold serious future discontent with the electoral system of the Sandusky charter. When that time comes the city may turn to proportional representation, as the experience of the sister Ohio city of Ashtabula is likely to be persuasive. If a further venture in prophecy were made it might well be that the most important single factor in the future success of the manager plan will turn out to be the provision for an accurately representative and stable council. Like most dependable prophecies this

is based on experience, and to this body of experience Sandusky has made a valuable contribution.

NEW PROBLEMS AHEAD

It will have been noted that in the foregoing story of Sandusky, there is no record of startling innovations or of sudden expansion into new fields of civic effort. On the contrary it is a plain tale of a difficult period successfully passed, of a community righting itself after an unfortunate beginning, and of the every-day affairs of a city being handled a little better than ever before. Sandusky would probably impress the uncompromising apostle of the "city ultimate" as undeveloped in community consciousness and its government as lacking in "vision." And, upon a superficial acquaintance with the city, such judgment would not seem to be unmerited. But, unless all signs fail, Sandusky is rapidly beginning to think as a community. There is evidence that the people are beginning to realize the importance of pulling together for a common cause.

In the process of arousing the city to community needs and community possibilities the chamber of commerce is proving a vital factor. It is leading the people to understand and appreciate things which, if first proposed by the city government, would be received with more or less suspicion. Thus even the new city government inherits a measure of that distrust which rightly existed as to the ability and disinterestedness of its predecessor.

To the charge of lack of "vision" the government of Sandusky might properly enter what the lawyers call a plea of "confession and avoidance." It cannot be denied that hitherto the eyes of the council and of the city manager have been fixed almost exclusively on the immediate work-a-day tasks of the city. Little else could have been done during the period of the war, and that is probably all that the people of Sandusky are now ready for anyway.

Vision, so called, usually translates itself in municipal affairs into such concrete things as city planning, housing, parks, playgrounds, recreation, etc. The apparent absence of vision in Sandusky may be partly accounted for by the fact that the city possesses in fair degree many of the things that other cities are striving hard to attain. There has been no sudden influx of population, though a considerable growth due to industrial expansion is now impending. With a population of between 25,000 and 30,000, it is claimed that 80 per cent of the families own their homes. The city is beautifully situated and has already an attractive and fairly adequate street plan. Shade trees abound and few cities of its size can boast such a beautiful system of parks. For fishing, boating and other water sports there is the great expanse of safe water afforded by Sandusky Bay. Across the bay is the finest beach to be found anywhere on the Great Lakes. This beach and the resort features there developed attract over a million and a half of pleasure seekers every year.

Sandusky appears to be on the eve of a considerable industrial expansion. In view of its location and advantages it should grow. The vision most needed in Sandusky just now is that which will make it possible to retain for this larger population the advantages which the people of Sandusky have hitherto enjoyed.

RICHMOND PASSES THE TURNING POINT

BY BROADUS MITCHELL

The Richmond Survey was one of the most important whole-city municipal research studies of last year. We asked Mr. Mitchell as one familiar with local affairs to relate the actual results that followed the sweeping recommendations of the survey. :: :: :: :: :: :: ::

I

THE movement which resulted in inaugurating a new plan of government for Richmond the first day of last January, while it had as its occasion popular dissatisfaction with one agency in the municipal organization, was really determined by the whole of the city's progress. The war demanded economy and effectiveness, victory in the fight for the federal reserve bank had impressed the obligations of leadership, success with Liberty loans inspired confidence. Dislodgment of the so-called administrative board, a superfluous cog in the city's machinery, was certainly the spectacular accomplishment of the better-government campaign. Yet it would be a mistake to consider the abolition of the board the underlying reason for the reform, and this is indicated in the fact that the board itself had birth some years ago in an ill-considered compromise between those who groped for concentration of power in the hands of the mayor and a group of reactionaries who wished continuance of the council and committee system.

It is true that voters in the election which instituted the revised charter were bent upon ousting the board and gave little attention to the form of government that was being brought in to take the place of the régime of which the board was only one bad feature, and it is also true that there is now little discussion of the new arrangement or of the extent to which it is correcting old grievances. These facts, however, spring from the complexion of a heated campaign, and are not criteria of the important and growing concern of the people in the organization of their municipal affairs. The action of the civic association of Richmond, which sponsored the reform movement, in capitalizing, during the agitation for the improved charter, the conspicuous inefficiency of the administrative board, and now, since the charter is in operation, in not pressing for the precipitate realization of all its benefits, is to be interpreted with the same desire to look beneath the surface. Clear distinction must be made between an exciting force which was efficacious at the critical moment and a determining cause which must be relied upon as insuring a progressive future.

It is no discredit to the civic association to find in its long and vigorous campaign through advertisement, newspaper publicity, the platform and the survey of the city government by the bureau of municipal research of New York, simply the crystallizing of public sentiment that was already in course of forming. Indeed, this is the best commendation of the method followed—that of carrying desire for reform in the van of reformers, so that when the situation had been made

clear and the proposals for remedying it were up in concrete shape for a vote, there was no room for claiming that the movement had been imposed from above or that the demand for a new charter had been sprung on citizens unawares.

The work of the civic association led up to the survey and centered in its findings and suggestions. While the survey report was a sanction for plans already largely matured, it did the important service of bringing to the city an objective examination that strengthened popular conviction. Study of Richmond's government by specialists of the bureau of municipal research was commenced in July of 1917 and the printed report appeared before the new year. The investigators while in the city were properly silent as to their discoveries, and yet contrived, in statements and public appearances, to do much toward informing the people upon the large facts of municipal organization. Furthermore, it was interesting to those who watched the movement closely and who examined the report critically to see how skilfully the document combined fidelity to accuracy and scientific values with regard for local tradition; there was kept always in mind a constructive purpose which sought to minimize the danger of deadlocks and to realize the largest net result.

II

The report stated that the organization of the city government under the old charter possessed three main defects, namely, (1) there was no responsibility for leadership, (2) the organization was too complex, and (3) there was insufficient correlation of functions that in fact were related.

The city was headless, or worse than headless in having three heads—the mayor, the two-branch council and the administrative board. The mayor was almost entirely without appointive power and his power of removal was greatly limited by the right of appeal of the employe to the criminal court, in which appeal the mayor must appear a defendant. Members of the administrative board, which body named the heads of large departments, were elected by the people. Making membership on the board appointive might have safeguarded against the lamentable inefficiency which resulted from the elective plan, but could not have offset the objection that it is dangerous to look for as decided assumption of leadership or acceptance of responsibility in a group of officials as in an individual. The city council was in worse case as respects leadership and responsibility than the administrative board. The partial effectiveness of mayor, board and council had led to the confusion in fact of functions which were none too distinct in theory; the administrative board, besides acquiring appointive power properly belonging to the mayor, came to have legislative authority, and the council was scarcely more representative than administrative. Thus absorbed from, the mayor became a titular officer and department heads were little better than high-grade clerks.

Complication in governmental structure was accompanied by "red tape, waste, duplication, lost time and general inefficiency." The charter, much too long and resembling a code of statutes rather than fundamental law, had been built up and adjusted through revision and amendment until it reminded one of an old New England farm-house, its original central portion barely distinguishable amid the complexity of wing, addition, porch and lean-to of successive generations of en-

largers. The people of the city did not understand the plan of the government and even few officials could do so.

This patch-work showed itself in no way more plainly than in the illogical separation of related functions. A random grouping of many departments under the administrative board was a very superficial economy of effort, and even here the public works functions were divided as between city engineer, superintendent of street cleaning and park keepers, to say nothing of others, City-owned gas, electric and water plants were operated, each independently of the rest. Obvious connection in protective purpose of police and fire departments did not prevent assignment of the former to the mayor and the latter to a board appointed by the council. There was like confusion in respect to financial and school officers. Administrative authority, diffused between several agencies, was rendered less forceful by the fact that such officers as the high constable, sheriff, city sergeant, city treasurer and commissioner of revenue were elected, under state constitutional requirement, by the people.

III

The bureau of municipal research suggested three plans upon which the city charter might be revised. These were the mayor and small council plan, the commission-manager plan and the the commission plan. The proposals were so contrived that none of them would necessitate amendment of the state constitution, highly desirable though this was seen to be as a future objective, and all of the three would operate, it was believed, to cure Richmond's principal governmental faults, especially in the respect of fixing executive responsibility in the mayor.

The mayor and small council plan was recommended as best fitting Richmond's needs, and the new or revised charter under which the city is now administered reflects tolerably faithfully the outline of this form of government as presented in the survey report. The proposal to reduce the council to a single body of nine members was not followed, but the suggestion to divide the administration into departments each with an especially qualified head appointed and removable by the mayor and together forming an expert advisory board was substantially embraced. All of the three plans put forward in the survey report, of course, contemplated the abolition of the administrative board, whose members as a general rule had never been, through education, experience or abilities, particularly fitted for the tasks intended to be accomplished by them.

It is best at this point to leave the survey report and examine briefly the provisions incorporated in the revised charter which was put into effect, since these provisions, on the side of structure of the government, represent the net gain from the reform movement.

Six departments are created—law, finance, public works, public welfare, public utilities and public safety. Heads of all departments except those of law and finance are appointed by the mayor subject to confirmation by the council, "such . . . heads of departments to be chosen by reason of fitness, training and education for the duties which pertain to the departments to which they respectively belong." The city comptroller, as constituting a check upon the mayor, is named by the council, and the city attorney, as peculiarly representing the corporation, is similarly appointed. The mayor is *ex-officio* chairman of the advisory board, which supplies the ad-

vantages without the disadvantages of the abolished administrative board, and to which matters may be referred by any department head and there finally disposed of in a decision which is binding upon all. Each director appoints his own subordinates subject to the approval of the advisory board, but he has plenary power of removal. In the creation of departments functional correlation is accomplished and, as respects administration, authority is pyramidized so as to place the mayor at the apex.

Lax charter requirements assisted by customary neglect had led to a very shambling budgetary system in Richmond. The mayor had little to do with decisions upon the proposed expenditures, and the appropriation ordinance sometimes did not reach him for signature until March, although the city's fiscal year begins February 1. Departments were embarassed in laying plans for the year and sellers to the municipality could not be sure that appropriations to be made would cover their invoices, though salaries of employes were provided for, with doubtful legality, by resolution of council. Recommendation of the bureau that the chief fiscal officer submit to the mayor estimates of department heads, with a complete statement of the current and prospective financial status of the city, by January 1, was embodied in the revised charter, and this in years to come will prove one of the most important gains from the survey.

The wisdom of the report in these largest matters is matched by the care with which lesser concerns were investigated and treated. Vigorous protest was made against the fee system, especially in the case where coupled with the conduct of the jail in such a way as to require that the city sergeant make this institution a paying one. Recommendations for untold administrative improvements, many of them by no means minor and amounting in the aggregate to the difference between efficient and inefficient government, composed the body of the report.

IV

It is difficult to estimate as yet the extent to which the aims of the reform movement are being realized in practice. The civic situation in Richmond appears to be quiescent; the new régime is on trial with the people, but the overwhelming adoption of the revised charter and many circumstances besides indicate that it is the personnel of the administration rather than the form of the government which must be proven satisfactory to the citizens. Provision of higher salaries for department heads would not have resulted in the selection of men superior to those chosen, mainly because the city does not contain better material. Thus far, it seems, the officials are showing themselves to be successful. It is foretold by some that future mayoralty elections will be fought out on the basis of candidates' promises to name this or that individual to headship of a department at the time particularly under scrutiny; indeed, evidence of this has already appeared.

Two circumstances have hindered more thoroughgoing conformity with the survey report's proposals: first, in the effort to discount the effect of the reform movement, a council committee, totally unfit for its duties, came to its conclusions about charter changes virtually without the assistance of the specialists' findings, which were delayed in being communicated; second, administrative officers have been unable rather than unwilling to put in practice quickly recommendations of the bureau regarding the conduct of their departments. Primary structural

changes were, however, inaugurated, and administrative improvement is being noted constantly. Attempts to give the impression that the latter has no external stimulus do not annoy those whose only anxiety is to see the betterment come about. In these matters, co-operation of the city in the bureau's investigation was a guarantee that Richmond had determined upon the new course. Correction after public knowledge is only a matter of time.

There has recently been a conspicuous case of greater administrative efficiency under the new government. Spoiled meat supplied the almshouse was the subject of a quiet interview between the director of public welfare, the superintendent of the institution and the provisions contractor. The fault was proved and admitted, the bill rebated and the meat destroyed. Under the old system this would have been the excuse for endless scandal, profitless talk and the complete diversion of municipal energies.

Caution of the survey against creating obligations for the purchase of supplies or improvements the life of which is less than the life of the loan have not been heeded, the council borrowing heavily for current expenses to prevent a sharp increase in the tax rate recommended by the mayor. There is no vital connection, however, between the financial situation and the new form of government, most of the difficulty being inherited from the old system. That the new order has brought a fillip to the city is seen in the fact that the civic association is finding the mayor responsive in its advocacy of large bond issues for sewer and paving construction.

Members of the administrative board in a desperate effort to save the old system and particularly their positions on the board as a part of it, with little thought that their partisan advocacy was the best argument for failure, took the stump in the charter campaign, and reactionaries the very day before the election prophesied their victory. But there was a settled conviction that the change would remove the domination of selfishness and smallmindedness and bring Richmond governmentally abreast; those acquainted with Richmond know that one more American city has passed permanently through the chapter of wastefulness and control by petty politicians. The civic association, in all of its progressive plans, instead of having to fight the charter and the administration, is finding itself more and more able to co-operate with the government and its officials in rendering double service to the city.

A LITTLE HISTORY OF PORK

BY CHESTER COLLINS MAXEY

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I. A REPORT ON RIVERS AND HARBORS

The First Pork-Barrel Bill

ALTHOUGH it has been overlooked by chroniclers of events and disregarded by scholars of history, the 20th of May, 1826, should be set down as a red-letter date in American political history. It is not the date of a decisive battle, nor is it the birthday of a president; it is not even the date of a significant speech or an important executive message; it is entirely devoid of dramatic interest; it merely marks the final enactment of the first omnibus appropriation measure for the improvement of rivers and harbors. Yet it has a more vital relation to the present than all but two or three of the very conspicuous and renowned dates in our national history; for that first river and harbor bill was the forerunner of a system of financial legislation whose evil effects have been immeasurable and which still afflicts the financial processes of our national government like a terrible blight.

Prior to the date mentioned the practice in making appropriations for the improvement of rivers and harbors had been to embody each appropriation in a separate bill or to incorporate the few and scattered appropriations for this purpose in one of the general appropriation measures. In one important particular, however, appropriations for the improvement of rivers and harbors were inherently different from the general run of federal appropriations of the period. While the objects of the expenditures for improving rivers and harbors were national in the sense that a benefit was conferred upon commerce and navigation in general, unique advantages accrued to the localities where such improvements were made, and this had the effect of arousing in all other localities a hunger for similar treatment regardless of the principle that national importance should afford the only justification for undertaking the improvement of a river or a harbor in any community. The natural reaction of this fundamental difference between river and harbor appropriations and those for most other federal purposes was that localities all over the country began to exert pressure upon their representatives in congress to secure river and harbor improvements, and members of congress in response to mandates from home began to practice all of the dexterous arts of legislative legerdemain in order to obtain appropriations for the objects desired.

The Rise of the Pork-Barrel System

Now the classic strategy of the legislator who is obliged to champion an intrinsically unmeritorious and indefensible proposition is what in the United States has come to be called "log-rolling," after the picturesque custom of the early backwoods pioneers in mutually exchanging help in the clearing of land and the erection of log buildings. The legislator proceeds upon the same principle of reciprocity when he engages to vote for an unworthy measure sponsored by a colleague in exchange for the colleague's support of his own equally unconscionable

bill. As the pressure for river and harbor appropriations increased, log-rolling became prevalent in connection with all measures carrying such appropriations, but it was not fast enough and sure enough to constitute a satisfactory instrument for the rapidly growing number who desired to secure gratuities from the national treasury for the benefit of their home communities. This fact explains the genesis of the omnibus river and harbor bill. When each river and harbor appropriation had to go through as a separate bill or as part of a general appropriation measure whose major items pertained to purposes wholly foreign to waterways, there was a high percentage of failures among the bills of purely local interest, which often were too obviously unworthy either to stand alone or to justify incorporation in a general appropriation measure. But if all proposed appropriations for rivers and harbors could be assembled in one bill and thus passed as a single proposition by one vote, this high mortality rate could be enormously reduced. The good items in such a bill would stand as apologists for the bad, and the bad could not be eliminated without losing the support of those who had procured their insertion and thus endangering the good, which would fail if the omnibus bill should be defeated. With the good and bad thus inextricably bound together in a bill consisting often of several hundred items, each of which carries an appropriation for a distinct and independent improvement project, about the only step necessary for the member seeking an appropriation for petty local purposes was to get his item into the omnibus bill. Whether a conscious recognition of this truth had anything to do with the decision to unite all appropriations for improving waterways in an omnibus river and harbor bill, we shall never know; but the patent facts are that the omnibus bill was inaugurated in 1826, and that the results were as described.

That petty local interests were not slow to perceive the utility of the new expedient in promoting their own ends must be obvious to any one who has taken the pains to peruse the congressional debates of the period. The following quotation from the debates of the house of representatives on May 1, 1827, shows quite clearly what followed the inauguration of the omnibus bill:

> Mr. Cambreleng of the committee on commerce stated that the committee found it necessary to fix some limit as to compliance with the various requests and applications made to them for the improvement of harbors. If they complied with all they were asked to do, there would scarce be a creek or inlet along our whole coast where some public work would not be erected. They had been in one case asked to improve a harbor situated upon a river, above the falls of that river.[1]

When Andrew Jackson became president in 1829, he made war upon all appropriations for internal improvements by the federal government. This policy was followed more or less faithfully by all of Jackson's Democratic successors, and Presidents Tyler, Polk, and Pierce conceived such hostility to river and harbor legislation that they made use of the veto power to defeat the river and harbor bills which congress passed during their administrations. The upshot was that, despite strenuous attempts in every session of congress, there was no omnibus waterway legislation of any moment except in the year 1852 until after the Civil War. After the war the omnibus river and harbor bills became a part of the regular appropriation program of congress, and there have

[1] Congressional Debates (Gales and Seaton), v. 4, p. 2557.

been since then only two instances of executive intervention to subvert such legislation, one being the veto by President Arthur in 1882 and the other being the veto by President Cleveland in 1896.

A Summary Analysis of the Pork-Barrel System

An exhaustive exposition of the system which has evolved in connection with these omnibus river and harbor bills cannot be undertaken in a brief article like this, but its main features may be summarized as follows:

1. Each omnibus bill is prepared by a committee (or better, perhaps, by two committees, as there is a committee in each branch of congress to which river and harbor legislation is confided), and the members of the committees, being human, naturally take care to include all of their own pet items in the bill. No collusion is necessary to accomplish this because very few committeemen have the temerity to object to items desired by another member of the committee. Such action would be a breach of courtesy and would endanger the items desired by the objecting member.

2. Spurred by pride and ambition for political success, the committee desires to frame a bill that will win favor in congress and that will pass by comfortable majorities. To accomplish this in the case of a bill making appropriations to numerous local points, it is necessary to admit into the bill enough items for the various states and congressional districts to enlist the enthusiasm and support of a majority, although not all of these items may be of the most commendable type.

3. Members who have not profited by either of these distributions of "pork" lay siege to the committee with a combination of cajolery, imprecation, and fulmination that usually breaks the none too inflexible will of the committee.

4. The bill proceeds through the house under the convoy of steam-roller procedure controlled by the committee, so that there is very little chance for debate or amendment; or if the committee has failed to frame a bill which commands sufficient votes to pass in this manner, the revolt in the house will not design to defeat the bill but simply to add to its items.

5. Since both houses act independently and one seldom accepts without amendment a bill passed by the other, it is necessary to have some agency to smooth out the differences between the two respecting each bill. This is a temporary joint committee known as a conference committee. In the conference committee an omnibus river and harbor bill receives its final touches, for it is usually either the report of the conference committee or no legislation at all. And the conference committee, be it noted, is in no way emancipated from the influences and motives that have been described in the foregoing paragraphs.

The peculiar thing about this system, it will be observed, is the fact that it generates its own momentum. The personal and political forces which merely stimulate and encourage log-rolling in a spasmodic and irregular way find in the omnibus bill an instrument through which they can operate regularly and systematically, and which in turn invites and stimulates them to action.

This system has acquired a name which is quite as distinct and meaningful as "log-rolling." On the southern plantations in slavery days, there was a custom of periodically distributing rations of salt pork among the slaves. As the pork was usually packed in large barrels, the method of distribution was to knock the head out of the barrel and require each slave to come to the barrel and receive his portion. Oftentimes the eagerness of the slaves would result in a rush upon the pork barrel in which each would strive to grab as much as possible for himself. Members of congress in the stampede to get their local appropriation items into the omnibus river and harbor bills behaved so much like negro slaves rushing the pork barrel, that these bills were facetiously styled "pork-barrel" bills, and the system which originated with them has thus become known as the pork-barrel system.

Results of the Pork-Barrel System

To appraise accurately the calamitous results that have been wrought by this pork-barrel system of legislation over a period of ninety-three years is beyond the power of any man. Hundreds, possibly thousands, of petty local points, have enjoyed the largess of the federal government through these pork-barrel bills. Just what proportion of the outlay for the improvement of rivers and harbors may be set down as pure waste cannot be estimated with great accuracy. Persons in a position to know better than the present writer have placed it at not less than one half. If such is the case, it represents a sum close to a half a billion dollars that has been dumped into the sands of puny rivers and the tides of tiny harbors just to satisfy the greed of provincialism. This is bad enough, but the outlook for the future is worse. River and harbor bills carrying from $30,000,000 to $50,000,000 are now common, and unless corrective measures are applied at once, we shall duplicate the waste of the past ninety-three years within the next twenty.

The Recent Attempt to Eradicate the Pork-Barrel System

In conclusion it should be stated that although a determined effort has been made in recent years to liberate river and harbor legislation from the clutches of the pork-barrel system, it seems to have come to naught. In 1914 the house of representatives passed the largest and most scandalous river and harbor bill ever known in the history of the country. When this bill came up in the senate, it was fought to a standstill by a small group of senators under the leadership of Senator Theodore E. Burton of Ohio. By a protracted filibuster they held the bill up until it seemed certain that it could not pass before the adjournment of congress. Came then to the rescue Senator Bankhead of Alabama with a resolution to refer the bill back to the committee with instructions to report a bill carrying a lump sum not to exceed $20,000,000, which should be apportioned to specific works by the chief of engineers under the direction of the secretary of war. This resolution was forthwith adopted, and on the following day the committee reported back the lump sum bill as instructed. The pork-barrel forces made their last stand in attempting to secure amendments to this bill guaranteeing that provision would be made for specified projects, but they were outvoted. The bill then went to the house of representatives, which declined to accept the substitute bill and asked for a conference. But the time remaining was too brief for an extensive parley in the conference committee, and the senate lump sum bill was recommended by the conference committee as a last resort. Both houses hastily adopted it, and it was at once submitted to the president, who approved it. This defeat temporarily disheartened the pork-barrelists, and in 1915 they rather tamely submitted to another lump sum bill. But in 1916 they were back again in full force. Taking advantage of the dissatisfaction with the allotments as made under the direction of the secretary of war as well as the retirement of Senator Burton, they rallied support enough to put through an old-fashioned river and harbor bill of about 300 items. At this juncture came the war, interrupting nearly all of the normal courses of life. But it did not feaze the smooth course of the now thoroughly revived pork-barrel system in river and harbor legislation. On August 8, 1917, some four months after our country entered the war, an omnibus river and harbor bill distrib-

uting some $30,000,000 was approved. Ostensibly this was for the maintenance and upkeep of existing improvements, but curiously enough it was careful to provide for the maintenance and upkeep of many improvements which it would have been better to abandon and which have never had the approval of the engineer corps. So the sordid story runs. The latest river and harbor bill was approved on March 2, 1919, and it carried approximately $27,000,000 for more than 200 different projects, 70 of which were absolutely new and entirely uncalled for by the exigencies of the times. This act was opposed both in the house and the senate, but nothing could stop its victorious march. Representative James A. Frear of Wisconsin, who led the attack in the house, evidently entertained no illusions as to the probable success of his venture, for among his opening words were these:

> If I declare the bill before us is a "pork-barrel," indignant committee members who never opposed an item or a bill in their lives and who support anything and everything, would bitterly resent as a personal affront such a charge, so I will not make it. I do say in a modest Christian spirit that this bill could never pass congress, but for the fact that it contained over 100 old projects and 70 new projects with additional surveys scattered from Maine to Mexico and to the Pacific coast, all of which bring votes to the bill. Not one item out of three, presumably, would get through if presented to the house singly, but in an omnibus bill everything goes.[1]

II. PORK-BARREL PUBLIC BUILDINGS LEGISLATION

The Former System of Building Legislation

A somewhat disproportionate amount of space has been allotted to river and harbor legislation because the pork-barrel system grew up in connection with those bills and has flourished most extensively in them. But there are several other typical pork-barrel bills which merit discussion in this study. First in order of time are the omnibus public buildings bills. Prior to 1902 when a member of congress wished to obtain an appropriation for the erection of a post office building at Slow Corner or Hay Station in his own bailiwick he had to get through an act authorizing the erection of such a building and specifying the sums to be expended for the purchase of land and the construction of the building. Such an act did not, however, authorize the expenditure of any money for the purposes named; it was merely a warrant to proceed when funds should become available through the regular processes of appropriation. But it did have the fact of creating a strong moral, if not a legal, claim for an appropriation, which the appropriations committee would recognize in its proper order by including an item in one of the general appropriation measures, usually the sundry civil bill. On account of the widespread demand for federal buildings there was naturally much log-rolling to secure the enactment of these authorization bills, but since each had to stand alone as a separate piece of legislation the pork-barrel system was impossible.

The Advent of the Pork-Barrel System

But in 1901 an event occurred which portended the capture of this species of legislation by the pork-barrel system. A large number of acts had been introduced increasing the limit of cost for building projects already authorized, and these were brought together in one bill, which on March 3, 1901, was passed as a single act. A few members of congress divined the

[1] Congressional Record, v. 57, p. 946.

nature and significance of this measure and commented upon it at the time. Representative William Sulzer of New York, for instance, called it "a demonstration of the cohesive power of public plunder."[1] Senator Orville G. Platt of Connecticut said of it: "It is like these other bills that come here—omnibus bills. There is so much in them for different states that the whole bill goes, when if they were brought here in separate bills, they would be carefully considered and very likely rejected." This opening wedge was successful, and about a year later (June 6, 1902) the first omnibus public buildings bill along the lines of modern styles was enacted. The pork-barrel system was thus inaugurated; the requirement of a separate bill for the authorization of each federal building was soon discontinued and the omnibus bills became the sole vehicle for authorizing such construction. The only particular in which the system thus created differed from that observed in river and harbor legislation is that the omnibus public buildings bills do not make direct appropriations from the treasury, it still being necessary for the money to be provided in subsequent general appropriation acts. And curiously enough this slight deviation from the normal greatly augments the subtlety and seductiveness of the pork-barrel system in building legislation. For although the omnibus buildings bills appear perfectly innocent because they impose no direct and immediate charge upon the treasury, the truth is that every item of such a bill is practically certain of recognition in a subsequent sundry civil appropriation bill.

Effects of the Pork-Barrel System

The effect of the pork-barrel system on buildings legislation quite parallels its effect upon waterway legislation. There has been an avalanche of buildings since the pork-barrel system became operative. More than 80 per cent of the building authorizations by congress since 1789 have been since 1902. In other words more than four times as many buildings have been provided for in 17 years under the sway of the pork-barrel system than under 113 years of unsystematic log-rolling. And the character of this plethora of buildings is fully as remarkable as its quantity. To tell here the tale of all of the hundreds of monumental structures that adorn the public squares and main streets of crossroad villages and diminutive municipalities would require volumes instead of pages. Let us hearken to unquestionable authority: In 1909 Postmaster General Meyer stated that the previous congress had appropriated $20,000,000 for the construction of post office buildings in small towns and cities where his department had recommended no new buildings; and in 1915 Postmaster General Burleson complained of the same thing, saying: "Many buildings are erected in cities where the cost of janitor service alone greatly exceeds the amount necessary to secure satisfactory quarters, including light and heat, under rental agreement, which is not believed to be wise business policy."[2] Here are a few of the cases that Mr. Burleson probably had reference to; there are scores in the same class:

Aledo, Ill., population 2,144, cost $65,000; Bad Axe, Mich., population 1,559, cost $55,000; Bardstown, Ky., population 2,136, cost $70,000; Basin, Wyo., population 763, cost $56,000; Big Stone Gap, Va., population 2,590, cost $100,000; Buffalo, Wyo., population 1,368, cost $69,000; Fallon, Nev., population 741, cost $55,000; Gilmore, Tex., population 1,484, cost $55,000;

[1] Congressional Record, v. 34, pp. 3410 and 3488.

[2] Annual Report of Postmaster General, 1915.

Jellico, Tenn., population 1,862, cost $80,000; Vernal, Utah, population 836, cost $50,000.

Contemporary History of Public Buildings Bills

The recent history of public buildings legislation offers little promise of better things. The last large omnibus public buildings bill was passed in 1913, and it carried an enormous cargo of "pork." Yet the ink of the president's signature had scarcely dried on the bill when agitation for another bill was begun. By 1916 it has accumulated so much force that a bill embracing some 400 projects was prepared and introduced. This bill passed the house of representatives on January 19, 1917, and was just at the point of being acted upon in the senate when the advent of the war caused an indefinite postponement. But just as soon as peace was restored a concerted effort was made to revive it. Indeed, many congressmen, impatient of the delay involved in the preparation of an omnibus bill and unwilling to risk the old method of individual authorizations followed by appropriations in the sundry civil bill, rushed in with special bills containing both authorizations and appropriations for their favorite projects. Fortunately these were sidetracked, and a majority of the members were able to content themselves with the introduction of authorization bills in accordance with the old procedure. Between December 2, 1918, and March 4, 1919, the number of such bills introduced was 374. They were referred to appropriate committees for disposition, and the committee seemed reluctant to report them out either individually or in omnibus form. And the hesitancy of the committee is not remarkable in view of the fact that the majority were of the character illustrated by the following typical cases:

Bedford, Ohio, population 1,783; Canadian, Tex., population 1,648; Algona, Iowa, population 2,908; Atoka, Okla., population 1,968; Yellville, Ark., population 463; Walhalla, S. C., population 1,595; Hailey, Idaho, population 1,231; Hays, Kan., population 1,493; Gravette, Ark., population 569; Idabel, Okla., population 1,493.

The pressure finally became so great that in the closing days of the session two omnibus bills were brought in, but they were too late to have any hope of passing. Undaunted by these reverses the sponsors of these petty projects all came back strong in the 66th congress. Between May 19, 1919, and July 1, 1919, a total of 417 bills to authorize the construction of public buildings were introduced, being mainly the bills which had failed in the previous session. On July 1, these had not as yet been welded into an omnibus measure, but doubtless by the time these lines appear in print that inevitable step will have been taken.

III. THE STORY OF PRIVATE PENSION LEGISLATION

The Original Purpose and Use of Private Pension Bills

The private or special pension legislation constitutes another field in which the pork-barrel system has of recent years become dominant. Originally the private pension act was an expedient for correcting the imperfections of the general pension laws, which laid down the conditions under which applicants could obtain pensions by appealing to the Pension Bureau of the Department of the Interior. In the distracting years of the Civil War and the chaotic times immediately thereafter it was difficult, if not impossible, to frame a pension law in general terms which would cover all meritorious cases. There were bound to be all

sorts of unique and peculiar cases where persons had performed services of hazard and hardship, but owing to technicalities could not qualify for pensions under the general laws. Not possessing information in advance regarding all of these cases, congress could not include enough saving provisos in the general statutes to cover them all; and, therefore, the only way a person belonging to this class, even though he had been seriously disabled in the service, could secure a pension was to get passed a special pension act naming him and ordering the Pension Bureau to place him on the pension rolls at a stated rate.

Between 1861 and 1863 twelve acts of this kind were passed, and in the ten years immediately following the conclusion of the war the number varied between 150 and 200 for each session of congress. As time elapsed, however, the need for special pension acts was almost entirely removed by the progressive liberalization of the general pension laws. Indeed the general laws became so extravagantly generous as to excite much adverse criticism, and there is no doubt that they opened the door of public bounty to many persons entirely unworthy of the nation's gratitude. Under these conditions one would naturally expect a great diminution in the number of pensions granted by special act. *But as a matter of fact the number has steadily grown; and fifty years after the close of the Civil War special pension grants were being made at an annual rate exceeding the total number allowed in the first thirty years following the termination of the war.* This is a phenomenon which requires explanation.

The Perversion of Private Pension Legislation

Beneficent as was the purpose of the special pension act, it could not escape perversion. Just as soon as it became apparent that the Pension Bureau could be circumvented by means of the special act, members of congress were deluged with requests for this sort of legislation. There were, it appears, literally thousands of pension claimants who for one reason or another could not satisfy even the constantly less exacting requirements of the general statutes, and these besought their representatives in congress to secure the passage of special acts supervening those requirements. Excepting, of course, those from the South, every member of congress was overburdened with appeals of this sort at every session of congress. It was the member's duty, to be sure, to resist the solicitations of persons not morally entitled to be pensioned; but oftentimes his perception was dulled by fear of the political power of the soldier vote, or he was deceived as to the facts of the case, or he allowed his sympathy for a person in distress to outweigh his judgment as to the merits and propriety of the appeal. Whatever may be the explanation, it is a fact that in the course of a few years the special pension act became the favorite resort of all pension claimants whose cases were deficient in legal or moral support.

It is easy to realize how bills of this kind should become subjects of log-rolling. Each bill was for the benefit of a particular person in a particular locality, and nobody but the member from that locality had any direct interest in its success. It might pass on its merits, and again it might not, especially if it chanced to be short on merits. Log-rolling, therefore, furnished the only guarantee of success. Although some restraining influence was exercised by the committee to which all such bills were referred for scrutiny before action was taken in the house, the committee could not

afford to be too arbitrary because nearly all of its members would have special pension acts in which they were interested. Furthermore, it was not long before the flood of special pension bills became so enormous (as many as 20,000 have been introduced in a single session!) that the committee at best could give only a perfunctory examination to each bill, and could not be any too sure of the character of those it recommended for passage.

The Pork-Barrel System and Its Effects

At this juncture came the pork-barrel system. It was in 1908 that congress abandoned the practice of requiring each special pension grant to pass in a separate bill, and initiated the present custom of lumping together hundreds of these measures in the form of an omnibus bill. The results of this departure which incidentally introduced the pork-barrel system, are simply amazing. Between 1861 and 1908, a period of 47 years, 19,738 special pension grants were made; but from 1908 to 1916 the number was 29,367. In other words, more than 60 per cent of the total number of special pension grants have been made since the pork-barrel system became operative in 1908!

And the quality of this torrent of special pension grants is quite as sensational as its quantity. To say that the majority of them have provided gratuities for persons who have absolutely no claim upon the benevolence of the country is to speak with great moderation. When we read of the deserters, the bounty jumpers, the unpensionable widows, the remote relatives, the post-bellum recruits, and the various other species of undeserving scoundrels who have had their names inscribed on the pension rolls by means of the special act, we wonder whether every omnibus pension bill is not a tissue of venality and corruption. But former Senator N. P. Bryan, who was for several years a member of the pensions committee of the senate, furnishes a less sinister explanation. He says:

> The committee on pensions cannot sit as a body and examine these claims. Sixty-five hundred of the cases last approved were passed in the senate in a purely pro forma way. These bills necessarily have been referred to somebody and that somebody is a clerk either in the department or the committee. He writes out these stories, they are incorporated in the report, and neither the committee, the senate, not the other house know what they are doing.[1]

The flood of special pension grants through the omnibus pension bills continues unabated and unchecked. But even the demands of the late war could not restrain its onrush. On March 2 and 3, 1917, seven omnibus pension bills were passed containing from 100 to 300 items each. A month later, on April 2, President Wilson summoned the new congress in an extra session and asked for a declaration of war against Germany. From that day until the final passage of the declaration of war three days later the country was breathless with anxiety and suspense. The representatives of the American people were in solemn conclave to decide whether they would plunge the country into the most stupendous and terrible war in history. And what was congress doing in those tense hours? Preoccupied ostensibly with events and issues of unprecedented significance, it was in fact behind the scenes attending to "business as usual"—at least to pork-barrel business. On April 3, 1917, exactly 947 special pension bills were introduced and referred to the proper committees for incorporation in subsequent omnibus pension bills, and on April 5, the day of the passage of the war resolu-

[1] Congressional Record, v. 51, p. 5664.

tion, 250 more were added to this list. Not even the challenge to "make the world safe for democracy" could dispel the charm of the pork-barrel system. What disinterested patriotism could not do in that hour, it has not done since. Congress went ahead grinding out omnibus pension bills throughout the period of the war without ever slackening its pace. The third session of the 65th congress ending on March 4, 1919, enacted six omnibus pension measures which averaged more than a hundred items apiece. Upon the opening of the 66th congress literally thousands of bills for special pension grants were brought in and referred to the proper committees in the two houses, and up until July 1, 1919, fifteen omnibus bills embodying these bills had been introduced; but at that date none of them had yet been acted upon. The end seems nowhere in sight. It is costing us more than $6,000,000 a year for the pensioners already on the roll as the result of special enactment, and we have been adding to this at the rate of about $500,000 a year. In the past the annual shrinkage due to the rapid death rate of veterans has reduced this to a net figure of approximately $250,000; but as claimants on accounts of the Spanish War and the recent World War come to avail themselves of special pensions we shall lose the benefit of this shrinkage.

IV. THE LESSER PORK-BARRELS

Although the measures discussed are the major pork-barrel measures, there are several other species of legislation over which the pork-barrel system is sufficiently influential to warrant brief mention.

An army post is so huge a prize that every section of the country is eager to have one; and if army posts could be multiplied and spread broadcast like buildings or pensions or river improvements, there is no doubt that the pork-barrel system would quickly dominate the legislation locating these establishments. But military establishments can never be sufficiently numerous to furnish material for pork-barrel legislation. Scandals have arisen in connection with the location of posts now existing, but in the majority of cases these owe their origin to free-lance log-rolling and not to the pork-barrel system. But in the retention and improvement of army posts that have long been obsolete, the pork-barrel system does come into full play. Appropriations for the support and upkeep of the army posts are carried either by the military bill or the sundry civil bill, and sometimes by both. As both of these are omnibus measures, items for the benefit of the unworthy and unnecessary posts are secured by means of the pork-barrel system. And as a result of the intervention of the pork-barrel system in behalf of such items the government is still lavishing money upon a large number of army posts which have long survived their day of usefulness and which time after time have been recommended for abandonment by the war department. Most of these old forts were established on the frontier in the early days to furnish protection against Indian attacks. To-day there is little use for them because they are situated in remote and inaccessible places which render them unfit for concentration and training camps in a modern war, a fact which was emphasized by the inability of the war department to use any of them to great advantage in the late war.

In regard to navy yards a similar situation exists, with the exception that the navy yards are not so numerous nor so poorly located as the army posts. But we have to-day several

navy yards located where the water is so shallow that modern battleships cannot use them. They ought to be abandoned, and if naval officials had their wishes they would be. But the pork-barrel system keeps them alive in the same way that it prolongs the life of the obsolete army posts.

The assay offices furnish another case of the same kind. Directors of the mint and secretaries of the treasury have repeatedly recommended that all but one or two of these be abolished. Typical is the recommendation of Secretary McVeagh in 1911: "The assay offices, with the exception of the one at New York city, are no longer necessary to the treasury system. They are useless survivals and are no longer of any use. They cost the government $185,000 per year and the whole amount is thrown away. At one time there was a reason for their existence but that has passed away. They ought to be abolished and I confidently recommend their abolition to congress." They are still with us. The pork-barrel system furnishes the explanation.

Another instance of the same character is the non-reservation Indian schools. Commissioners of Indian affairs have persistently advised that these be abolished in order to make way for a better type of Indian education. But the communities in which they are situated resist such action, and inasmuch as the Indian bill is of omnibus character the pork-barrel system procures the necessary appropriations for continuance with clock-like regularity. The people of this country may have a romantic interest in the education and welfare of the red man, but they have a practical interest in "pork" which yields to no mere sentiment.

Finally there is the annual congressional seed distribution. The agricultural bill (an omnibus bill) always carries an item amounting to $250,000 or $300,000 for the purchase of seeds, and by the time the cost of packeting and mailing is included the total outlay usually reaches $500,000. It is specified that five-sixths of the total quantity of seeds purchased shall be apportioned among the members of congress for distribution among their constituents, each member supplying the Post Office Department with a list of names for that purpose. Since the seeds are purchased on the open market as a result of the submission of competitive bids, they are not always of high quality; indeed their germinative record is so poor that gardeners never rely upon them for crops. There seems to be a general understanding that their purpose is not to promote the growing of better varieties and to stimulate agriculture, but to catch votes. The seed men know this, and consequently they work off their inferior grades in sales to the government; most of the constituents know it by reason of sad experiences in trying to make congressional seeds grow; but members of congress as a rule simulate outraged innocence whenever it is suggested that there are ulterior motives in this seed business—in fact, the writer knows of one case in which a member of congress protested indignantly because a county superintendent of schools sanely ruled that congressional seeds should not be used in school garden contests. The whole scheme is nothing but an audacious piece of pork-barrel legislation, which at one stroke provides a piece of "pork" for each member of congress which he can use for his own private and personal purposes.

V. AN EXECUTIVE BUDGET SYSTEM THE ONLY REMEDY

Disuse of the Omnibus Bill

The omnibus bill is so predominant a factor in the development and operation of the pork-barrel system that it has been suggested from some quarters that the abandonment of this expedient would naturally bring about the dissolution of that system. Probably it would; but the cure might be more fatal than the disease. The omnibus bill is something more than merely an instrument unexcelled in the furtherance of log-rolling; it is an indispensable device for speeding up the work of congress. The volume of business that must be ground out by congress in these days is so enormous that to require a separate vote on every item now incorporated in the leading omnibus bills would impede the progress and slow down the procedure of the national legislature to an extent that would excite a howl of protest. Congress is too dilatory as it is, and anything that would aggravate this failing would be intolerable. The omnibus bill performs a vital service in facilitating legislation, and the part it plays in the pork-barrel system is simply incidental and owing to the fact that proper precautions have not been taken to safeguard its use.

If it were possible, however, to dispense with the omnibus bill, the gain would not be as great as is imagined. The intriguing, smooth-working pork-barrel system probably would disappear and we would be cast back into a state of inordinate and wholesale log-rolling which would be nearly as vicious. It was pointed out in the sections dealing with special pensions legislation and public buildings legislation that log-rolling had become very prevalent and successful long before the advent of the pork-barrel system. Abandonment of the omnibus bill would simply mean a restoration of these conditions or worse ones.

The Item Veto

It has often been urged that if the president could veto items of appropriation bills as the governors of many states are empowered to do, he could thwart the pork-barrel system by pruning the "pork" out of omnibus appropriations. On its face, this is a promising expedient, but close scrutiny shows that it would be likely to disappoint the hopes it has aroused.

A president who would undertake by means of the item veto to purge all omnibus appropriation bills of "pork" would find himself confronted with a perplexing dilemma. To give adequate consideration to each of the aggregate of several thousand items that make up the major appropriation measures and to do it in the limited time usually available for the exercise of the veto power would be an impossibility for him even with the assistance of a large staff of assistants; and too, the time necessary for this work would result in holding back the appropriations for months after congress had acted. Moreover, it would require a constitutional amendment to confer upon the president the item veto power and to accord him more than the ten days allowed by the constitution for the exercise of the veto power.

There is still another objection to the item veto. The experience of many of the states which have that scheme shows that it would place in the hands of the president a weapon which he could employ surreptitiously to harass his critics and reward his friends. Without seeming to be malicious, the president could and probably would discriminate in favor of his faithful henchmen by omitting to strike out their "pork" but always

vetoing items beneficial to his enemies; and in this way the item veto would become a political weapon in his hands. The matters involved would as a rule be so trivial that they would not attract widespread attention and would excite no popular indignation outside of a few scattered congressional districts; and although the president's veto could not foreclose the case against the member thus struck at, it could be made a source of serious annoyance and embarrassment. Idealists may believe that presidents would not so misuse the item veto power, but such persons cannot be very familiar with practical politics.

A Single Appropriations Committee

One of the causes of the pork-barrel system is the division of responsibility for appropriation measures in the two houses of congress. When the responsibility for preparing appropriation measures is cut into eleven parts in the house of representatives and eight in the senate, there can be no genuine accountability for the character and content of such measures and no careful supervision of the work of preparing them. Committees are cumbersome expedients at best; and when partisan politics, provincialism, and competition are injected into their proceedings, vicious results are certain to follow. A few members of congress, therefore, being aware of the defects of our financial system, have advocated a return to the former plan of having one committee in each house responsible for all appropriation legislation. It is contended that this would unify and definitize responsibility for appropriation measures, which would in turn do much to checkmate the pork-barrel system.

One hesitates to oppose an internal reform like this; but the fact is that it would hardly be adequate. It is even doubtful whether a single committee would be able to bear up under the enormous load that would be placed upon it under modern conditions. One of the reasons for the distribution of appropriation work among several committees was that the volume of work was growing so that it seemed to be too much for one committee, and it is immensely greater now than when this step was first taken.

But leaving this out of consideration, it still seems improbable that centralization of committee work will suffice. Centralization of committee responsibility would mean a corresponding centralization of pressure by the pork-barrel forces; and if a committee which is responsible for only one bill cannot resist these forces, it is unlikely that a committee responsible for a dozen or more bills will be able to do so. Furthermore, the concentration of such large powers in one committee would tend to subordinate congress to the dominion of its two appropriations committees, and thus it would open the door to uncontrolled legislation.

Lump Sum Appropriations Administered by Experts

The experience gained under the river and harbor bills of 1914 and 1915 has led to the notion that the pork-barrel system could be thwarted by a scheme of lump sum appropriations for such purposes as rivers and harbors, special pensions, and federal buildings; these lump appropriations to be applied to specific uses by non-political boards of experts specially constituted for that purpose.

There is one outstanding weakness in this plan, which is that it practically deprives congress—the representative branch of the government—of real control of the expenditure policy of the government. In granting lump sum appropriations congress virtually

abdicates its right to criticize, limit, and direct the administration of public funds. If, on the other hand, congress seeks to exercise these powers by granting lump sum appropriations and then attaching conditions limiting their application, nothing will be gained, because the pork-barrel forces will immediately set out to secure the insertion of conditions which will serve their own purposes. Certainly there should be a very grave emergency to warrant sacrificing the principle of the segregated appropriation bill, which after many years of experimentation in public finance has come to be recognized as the only basis for intelligent and constructive action on the part of a legislative body, as well as its most effective means of controlling the executive in the application of appropriations to the purposes designated. All of this would be lost under the lump sum scheme, and the formulation of expenditure policy together with the distribution of appropriations to specific projects would rest in the hands of detached and irresponsible bureaucrats.

The Executive Budget System

When President Taft's commission on economy and efficiency reported in 1912 in favor of an executive budget system, few persons outside of academic walls understood the real purport of the recommendation. But in the seven years that have intervened since that time budget propaganda has penetrated every part of the country, and the budget idea has been taken up by states and municipalities with such avidity that several hundred cities and thirty-nine states have now installed budget systems of greater or less perfection. We may, therefore, omit any discussion of the essentials of a budget system and confine our attention to the budget as a cure for the pork-barrel system.

I think it can be said categorically that the budget system is superior to all other proposed remedies for the pork-barrel system. It strikes at the causes of the pork-barrel system quite as effectively as any, and yet it does not sacrifice any of the valuable features of the present procedure or bring about counterbalancing disadvantages.

The pork-barrel system is, as we have seen, the debauching of certain of the omnibus appropriation bills by the forces of personal ambition and provincialism, aided and abetted by an unmethodical and irresponsible scheme of financial procedure. Under an executive budget these forces of personal ambition and provincialism would be balked, because the budget system would transfer the initiative in appropriation matters from individual members of congress and committees to the executive which is representative of the whole country and cannot possibly derive any advantage from catering to local demands. The business of the executive under the budget system would be to develop an expenditure plan covering all of the activities of the government and predicated upon a work plan. This work plan would have to be properly correlated with the existing state of the public finances, the anticipated revenues, and the needs of the whole country. Local and personal interests would experience great difficulty in finding a place in such a plan because of their inability to convince the executive, which has no local obligations, that their pet projects could be justified from a broad, national standpoint. In most cases it would be a thankless and impossible task to approach the executive on such matters. This in turn would have the effect of safeguarding the omnibus bill against abuse, because the executive, being unable to evade the sole responsibility

for the content of such measures, would resist the solicitations of local interests in behalf of unworthy objects of expenditure.

On the other hand, the budget system preserves to congress its rightful and proper control over the financial policies of the country. If the budget is submitted to congress in segregated form, as it should be, congress will be able by criticism and amendment to correct the imperfections of the plan formulated by the executive, and by means of the segregated appropriation act supplemented by adequate accounting and reporting methods will be able to enforce adherence to the plan finally approved by it. At the same time the probability that the pork-barrel forces in congress could marshall sufficient strength to utilize the power of amendment for the benefit of a multitude of unworthy purposes such as now enjoy the largess of the government, is very slight. It would hardly be necessary to place limitations upon the power of congress to increase the budget, as the English system does, because the executive would have a tremendous advantage owing to the fact that the every amendment would have to stand by itself and base its hopes of success or failure upon a fair consideration of its own merits, which is precisely what the petty local projects and purposes strive to avoid. Moreover, the attitude of congress toward appropriation measures would be entirely changed by depriving it of the initiative. Instead of the instinct of a political Santa Claus, it would become possessed of the jealous spirit of a watchdog of the treasury. There is a world of difference between doing a thing yourself and being under the necessity of finding fault with another's discharge of the same duty. In the former case you may be indifferent, unsystematic, careless, and even mercenary; but be that as it may, when you come to judge the other fellow, you are seldom inclined to condone his faults. So it would be with congress. Placed in the position of censor, it would not readily respond to the impulses and motives that now govern its acts; and those who might seek to take advantage of the power of amendment to provide for unworthy local objects would probably find that they had appealed to the wrong court.

ADVANCE DRAFTS

OF PROPOSED PROVISIONS OF A MODEL CONSTITUTION

FOR SUBMISSION TO THE

MOOT STATE CONSTITUTIONAL CONVENTION

To be held at Cleveland December 29–31, 1919, by the National Municipal League

The work of preparing a complete set of provisions for submission to the Moot Convention has been divided among nineteen societies and committees. Seven of the fundamental and most debatable reports are printed here for consideration in advance of the meeting. Look up your authorities, consult history, sharpen your axes and reserve your rooms at the Hotel Statler! And if you are not a member of the National Municipal League, send in your $5.00, for only members may vote at the final session! :: :: :: :: :: :: :: ::

RULES

Rules for Monday, December 29. *General Hearing.* 10 a.m. and 2 p.m.

Presentation and discussion of all proposals. Questions and five-minute speeches from the floor. No voting except such trial votes by show of hands as sponsors of proposals may request for their own guidance. Matters on which no opposition appears may after warning be declared by the chairman to be adopted and will not be put on the calendar for Wednesday.

This session open to all comers. Members of the American Political Science Association and American Historical Association especially welcome. Non-members may speak and vote.

Rules for Wednesday, December 31, 10 a.m. and 2 p.m.

Parliamentary law. If controversy on a given subject is protracted beyond the limits of the time-table, the subject may be transferred to the foot of the calendar by the Chairman and if not reached again will remain undecided. Only members of the National Municipal League may speak and vote at this session.

General Rules.

Proposed amendments to drafts that are presented on Monday must be presented to the appropriate committee *in duplicate* before noon on Tuesday for consideration and to be printed. If presented otherwise on Wednesday, consideration of the text may be ruled out of order. But verbal motions of recommendations to the committee on state government, covering the general intent of the desired changes may be offered.

The current constitution of Nebraska, as a typical American state constitution, has been selected as the basis for the work of all societies and committees, but it is not expected that they will inquire into or deal with local Nebraska problems.

The composite result of the moot convention will undoubtedly be inconsistent and incomplete by reason of the shortness of working time. It will be referred without publication to the committee on state government of the National Municipal League with instructions to draft a model state constitution for presentation as an orderly, fully-considered and self-consistent whole to the next annual meeting of the league.

I

TENTATIVE PROVISIONS COVERING GOVERNOR AND LEGISLATURE

IN PREPARATION BY A COMMITTEE OF THE NATIONAL SHORT BALLOT ORGANIZATION

(Subject to drastic revision before presentation)

[Articles and Section Numbers from *Nebraska Constitution*]

ARTICLE II. Section 1—Division of Powers. *Repealed.*

ARTICLE III—Legislative. Section 1—Powers of Legislature. The legislative and executive authority of the state shall be vested in the legislature, but the people reserve for themselves power to propose laws and amendments to the constitution and to enact and reject the same at the polls, etc. (For balance *cf.* Initiative and Referendum presented by Popular Government League.)

Section 2—Mid-decennial Census. *Repealed.*

Section 3—Number of Members, Sessions. The legislature shall consist of seventy-four members more or less as hereinafter provided.

The sessions of the legislature shall be biennial or oftener.

Section 4—Legislators, Term of Office, Compensation, Length of Sessions. Members of the legislature shall be elected for the term of four years, but any district may by a petition of fifteen per cent of its qualified voters order an election for its delegation to the legislature to be held on the first Tuesday after the first Monday in November of any year, for a term of four years. (All provisions regarding salaries of members of the legislature, limitation of sessions to sixty days, and time limit on introduction of bills, etc., *repealed.*) Members of the legislature shall receive such compensation as shall be provided by law.

Section 5—Who Not Eligible. Resident qualifications, etc. *Repealed.*

Section 6—Exclusion from legislature of persons holding other offices. *Repealed.*

Section 7—Sessions, commencement, quorum, rules, officers, openings, punishment. The biennial sessions of the legislature shall commence at twelve noon on the first Tuesday in January in the year 1921 and each odd year thereafter; other sessions may be provided by law or may be called by resolution of the legislature, or by the legislative council, or by the signed demand of one third of the members. A majority of the members shall constitute a quorm. The legislature shall determine the rules of its proceedings and shall be the judge of the election, returns and qualifications of its members. No member shall be expelled except by a two-thirds vote of all the members elected to the legislature, and no member shall be twice expelled for the same offence.

Section 9—Amendment of Bills by second house. *Repealed.*

Section 12—Privilege from arrest. *Unchanged.*

Section 13—Members not to hold other office, etc. *Unchanged.*

Section 16—Extra compensation. *Unchanged.*

New Section—Legislative Council. The legislature at the beginning of the session of 1921 and of each biennial session thereafter, shall elect from its own members in the manner hereinafter provided[1] a legislative council of nine members.

New Section—Powers of Legislative Council. The legislative council shall have power to prepare and introduce legislation, to make inquiries with powers of subpoena into matters affecting the general welfare; to appoint and remove the administrative manager; to supervise and direct the work of the administrative manager; to appoint the civil service commission as hereinafter provided.

New Section—The Legislative Council shall be the only committee of the legislature. Any member of the legislature may at any time file a bill with the legislative council, and within fifteen days if the legislature is in session, or within sixty days, if the legislature is not in session, the legislative council shall prepare a report thereon, and such report and the bill shall be printed forthwith and delivered to the members of the

[1]Proportional Representation.

legislature. No bill may be introduced in the legislature except by the legislative council, or by a majority vote of the legislature after the legislative council has reported upon it.

New Section—Governor. The chairman of the legislative council, shall be that member who receives the largest number of first choice votes at the selection of the council, or if there be a tie, the largest number of first and second choice votes, and so on and shall be entitled governor. He shall have no veto or appointive power.

New Section—The legislature shall elect from its own number a presiding officer.

New Section—The Administrative Manager. The legislative council first elected under this constitution shall appoint an administrative manager. The administrative manager shall hold office at the pleasure of the legislative council. He shall be paid at the rate of $10,000 per year until otherwise determined by the legislature. He shall appoint and remove the heads of all state departments, and all commissions and shall be responsible to the legislative council for the execution of the laws, the lawful administration of all state expenditures, the custody of all state property, and maintenance of public order. He shall be commander-in-chief of the naval and military forces of the state, except when they shall be called into the services of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion.

New Section—Secretary of the Legislature. The legislative council shall appoint the secretary of the legislature who shall appoint and supervise all employees of the legislature, and have charge of all service incidental to the work of legislation.

New Section—No appointment shall be made to any office by the legislature or by any member or members thereof, except as in this constitution expressly provided.

New Section—Auditor of Public Accounts. The legislature shall at the first session under this constitution elect an auditor of public accounts, who shall hold office until recalled by the legislature. The auditor of public accounts shall annually or oftener scrutinize and report on all public accounts of the state and of all counties and municipalities. He may compel testimony under oath and may suspend or veto any state expenditure contemplated or begun, which has not been authorized by the legislature.

All of Article V—Executive department, covering state offices, powers of governor, veto power, bonds, etc., *repealed*, except section 13, pardoning power (Cf. Amer. Judicature Society), and section 19 (a) state railroads commission. Cf. Public Utilities Committee.

Authors' Comment on Governor and Legislature Proposals

This proposal tests the readiness of the National Municipal League to extend logically to state government the principles of unification of powers and complete control by the representative body embodied in its model charter for municipalities—the city-manager plan.

In applying the city-manager plan to a state certain modifications are in order in recognition of the greater part which law-making plays in state government and the diminished relative importance of the administrative establishment. Accordingly the legislature is made reasonably numerous so that all opinions may be surely and adequately represented. So large an assembly, however, could not be expected to deal with administrative detail and would naturally handle such detail through an executive committee which is, therefore, formally legalized —the legislative council. The administrative manager has no legislative function but is simply the head of all the administrative departments, a non-political officer comparable to a city-manager.

The governor in this plan becomes the legislative leader in a position comparable to that of the Prime Minister in the various parliaments of the British Empire. He is the majority floor-leader, the introducer and sponsor of the most important and best prepared legislation, the key man whose position and utterances on political questions of the day are momentous

and often decisive. The post is influential without being explicitly powerful, for he must win and continuously retain the approval of the legislative council or administrative projects and the approval of both council and legislature in law-making.

The representative in the legislature formerly subject to the dissent of the other house and the veto of the governor, is here elevated to real dignity. He is discouraged from amateurish bill writing and from the trifling privilege of thrusting his bills, or those that are handed to him, into the legislative hopper. He sits like a member of a grand jury, in review of matters that have had responsible and expert preparation by the experienced legislators of the council in whom he has confidence. Nothing can be done or started without his consent. He must be shown. But he is relieved from the pressure to attempt constructive legislation amid a confusion of committees and thousands of petty bills. He can be a farmer, a laborer, a business man or a housewife without feeling at a disadvantage as compared with the lawyer members. If he wants the state to help his county build a bigger bridge, he will not lobby through a special bill with a guesswork appropriation but will get after his best friend on the legislative council who will ask the manager who will ask the highway department and come back presently with the reply that a certain new state road on the north bank of the river will presently relieve the congestion. He consents or disserts but he does not often create.

The legislature is protected from the perversion of its grants by the power of its separate agent, the auditor, to block unauthorized expenditures.

II

PROPOSED FOR PROPORTIONAL REPRESENTATION FOR LEGISLATURE

BY THE AMERICAN PROPORTIONAL REPRESENTATION LEAGUE

ARTICLE III

Sec. 2. [Add the following:] In any apportionment of representatives a definite number shall be selected as the number of inhabitants who shall be entitled to one representative and each representative district shall be assigned a number of representatives equal to the integral number of times that the aforesaid number is contained in the number of inhabitants of the district, excluding Indians not taxed and soldiers and officers of the United States Army and Navy. No apportionment shall be made which shall prescribe less than five representatives for any district.

Until otherwise provided by law, representatives shall be elected from the following districts:

District No. 1. Shall consist of the counties of Cass, Gage, Johnson, Nemaha, Otoe, Pawnee, and Richardson, and be entitled to eight representatives.

District No. 2. Shall consist of the counties of Douglas and Sarpy, and be entitled to eleven representatives.

(Etc. Ten compact districts with 5 to 11 members. Total 74 members.)

Sec. 3. The representatives assigned to each district shall be elected together by the system of proportional representation with the single transferable vote.

Until the Legislature shall provide otherwise, the proportional election of representatives in each district shall be carried out according to the following provisions:

[Insert here the standard rules of the Hare System of Proportional Representation. All

nominations by petition. Non-partisan ballot. No primary election. Voter marks 1 for his first choice, 2 for his second choice, etc. If his first-choice candidate does not need this ballot by reason of having the required quota without it, or if his first-choice candidate is found to have no chance of election, the ballot is transferred to his second-choice candidate and so on. —V., publications of American Proportional Representative League, Philadelphia.]

ARTICLE IV

Legislative Council

Section 1. After each election of representatives the newly-elected representatives shall elect a Legislative Council by the system of proportional representation with the single transferable vote under provisions which the Legislature shall prescribe. Until otherwise provided by law, the Legislative Council shall consist of nine members.

Sec. 2. The Legislative Council shall remain in session continuously and shall meet as often as may be necessary to perform its duties. It shall in any case meet at least once in each month except July and August. It shall hold office until its successor is elected, and its members shall continue to be members of the House of Representatives.

Sec. 3. The Legislative Council shall be subject to recall at any time by vote of a majority of all the members of the House of Representatives. Whenever the Legislative Council is recalled, the House of Representatives shall immediately proceed to elect a new Legislative Council. Every member of a recalled Legislative Council shall be eligible for re-election.

Sec. 4. The Legislative Council shall receive proposed measures, hold hearings upon them when requested, consider them carefully, and report them with its recommendations to the House of Representatives. It shall also perform such other duties as may be assigned to it by law. On going out of office it shall transmit all matters not yet disposed of to the newly elected council with or without recommendations.

Sec. 5. The Legislative Council may call a special session of the Legislature at any time.

ARTICLE XIA

Section 5. Every election of a charter convention shall be carried out by the system of proportional representation with the single transferable vote.

ARTICLE XIB

Section 5. The Legislature shall provide by law for the election of the boards of directors of managers of all incorporated companies by the system of proportional representation with the single transferable vote. This section shall not be interpreted as prohibiting voting by proxy or the casting by one person of as many transferable ballots as the number of shares of stock owned by him.

AUTHORS' COMMENT ON PROPORTIONAL REPRESENTATION PROPOSAL

The recommendations of the American Proportional Representation League provide for the proportional election of all representative bodies whose manner of election is prescribed in the constitution. Proportional representation insures the representation of every united group in proportion to the votes cast by it. It thus insures majority rule and minority expression on all important questions.

No recommendations are made in regard to the state senate, on the assumption that its abolition will be proposed by another organization.

The provision, under Section 2 of Article III, that at least five representatives must be elected together from each district is due to the fact that one person cannot usually represent with any degree of accuracy more than a fifth of a district's voters.

The districts recommended are about as large as is consistent with convenience and dispatch in collecting and counting the ballots under the Hare System of Proportional Representation.

The Hare system is prescribed (in Section 3) rather than the list system of proportional representation because it not only gives each party its fair share of the representatives, as does

the list system, but also gives the voters of a party perfect freedom to choose their real leaders without machine dictation and gives fair representation even to unorganized groups and independent voters.

The legislature is given power to change the rules—though not the main principles—because improvements in the technique of the Hare system are being made from time to time.

The vacancy and recall provisions are designed to preserve proportional representation. Majority filling of vacancies or majority recall would obviously violate the principle, since each representative is originally elected not by a majority, but by a certain minority.

Article IV, which supercedes an article which has ceased to function, provides for a small representative legislative council to perform the duties of a cabinet and to replace the various undemocratic committees which play so large a part in present legislation.

From a mathematical point of view the most satisfactory form of recall precedure in the case of a proportionally elected representative body is a complete new election as provided in Section 3. This procedure is entirely practical when, as in this case, the number of electors is small.

III

PROPOSAL FOR PROVISIONS GOVERNING LEGISLATIVE PROCEDURE

BY SPECIAL COMMITTEE OF ONE—H. W. DODDS, WESTERN RESERVE UNIVERSITY

Each house shall be the judge of the election, returns and qualifications of its own members, but the legislature may by law vest the trial and determination of contested elections of members in the courts of law, the judgments of which shall be binding upon the legislature.

COMMENT: Efforts to cure abuses of power by the majority in deciding contested elections by referring the trial and decision to the courts have always been held void as infringements upon the inherent and exclusive powers of each house. The purpose of the section above is to validate efforts to reform the contested elections situation.

Each house shall choose its own officers, determine its own rules of proceeding, punish its members for disorderly conduct and with the concurrence of two-thirds of the members expel a member, but not the second time for the same offense except that a member expelled for corruption shall not thereafter be eligible to membership in either house. Each house shall have power to punish for disorderly behavior in its presence or for the obstruction of its proceedings or of its officers in the execution of their duties. Each house shall have power to compel the attendance and testimony of witnesses and the production of books and papers before committees or otherwise in any matter which may be a proper subject of inquiry by the legislature.

COMMENT: While the powers in this section have usually been held to inhere without specific grant, of late years the New York courts and others have tended to deny to the houses the inherent right to summon witnesses, punish for contempt, etc., if the constitution is silent on the subject.

A majority of each house shall constitute a quorum but a smaller number may adjourn from day to day and compel the attendance of absent members. Each house shall keep a correct journal of its proceedings and a record of its debates

and promptly publish the same from day to day. Action by the legislature shall be void unless the journals show by entries thereon that all requirements of the constitution relating to procedure in passing measures have been observed.

COMMENT: This provision attempts to enforce upon the legislature observance of the constitutional procedure in passing bills. The act itself would be only prima facie evidence of its passage and silence of the journal could not be presumed to indicate that the constitution had been fulfilled. The record of debates is designed to give the people the full proceedings of the sessions. But three states at present publish full debates. The proposed constitution of New York of 1915 contained the requirement. While the expense is considerable it is important that the legislature's proceedings be given full publicity.

No bill, except the general appropriation bills for the expenses of the government, introduced after the first thirty days of the session, shall become law unless the governor shall have certified by message to the necessity of considering the subject matter embraced in it.

COMMENT: The purpose, of course, is to secure early introduction of bills. It cannot be attained otherwise because the house is usually ready to grant unanimous consent for the introduction of measures after the prescribed time limit. The exception of general appropriation bills is permissable only in those states which have not provided a budget system.

No law shall be passed except by bill, and no bill, except general appropriation bills or bills adopting or revising a code or digest, shall be passed containing more than one subject, which shall be clearly expressed in the title.

No bill shall become a law until it has been read on three different days in each house, has been printed and upon the desks of the members in final form at least three legislative days prior to final passage, and has received the assent of a majority of the members elected to each branch of the legislature. Introduction and printing fact of same in the journal may be deemed first reading.

Upon the last reading of the bill no amendment shall be allowed and the question of final passage shall be by yeas and nays entered on the journal; provided that the employment of mechanical instruments to record the correct votes of members shall not be construed as contrary to this provision.

The presiding officer of each house shall in the presence of the house over which he presides certify to all measures passed by the legislature. The form of the certificate shall be as follows:

Passed ..... day of ....., ..., in accordance with the provisions of the Constitution and the rules of procedure of the (House of Representatives or Senate).

.....
(Title of presiding officer).

The fact of signing shall be entered in the journal.

COMMENT: The purpose of this provision is to fix a certain moral responsibility for the enforcement of rules of procedure whether embodied in the Constitution or not, since the courts will enforce no legal liability.

No local or special bill shall be introduced except by petition, nor unless notice of intention to apply therefor has been published in the locality to be affected thirty days prior to the introduction of the bill in a manner to be prescribed by law. The petition must set forth the scope and object of the bill and why its purpose cannot be accomplished by general law, and must be accompanied by certificate of notice to advise parties, by a draft of the bill, and by complete information for the guidance of the legislature as may be prescribed by law. The committee to which the bill is referred shall, before it reports to the house, hold a public hearing thereon after seven days' notice to the petitioner or petitioners and to adverse parties known to the committee. A committee failing to report the petition to the house within three weeks after reference may be discharged from further consideration thereof with the assent of a majority of the members. Committee hearings upon special and local bills shall be in joint committee of the two houses or in joint session of the appropriate committees of each house, as may be provided by the rules.

COMMENT: The undoubted evils of special legislation have placed in our constitutions detailed restrictions upon the power of the legislature in passing such legislation. These provisions, however, often prevent legislation for certain districts or contingencies which represent special needs. The problem is one of the most difficult with which makers of constitutions have to deal and there is little hope that legislatures will come soon to accept self-denying distinctions between legislation and administration. Special legislation will continue to encumber legislative processes, and it is the intention of the above provision to introduce something approaching a judicial inquiry after the precedent of England and her colonies.

If this procedure is observed the danger of sinister special laws is naturally reduced and the constitutio ncan reasonably allow more latitude concerning local legislation. At present these restrictions are often defeated by the practice of passing special legislation under the form of general law, with the consequent widening of the power of judicial veto. Two or three states have taken steps approaching the English practice.

IV

TENTATIVE PROPOSAL OF PROVISION FOR A BUDGET SYSTEM

BY GOVERNMENTAL RESEARCH CONFERENCE

(Subject to further revision before the Convention)

AUTHORS' COMMENT: Since time did not permit referring this memorandum to the members of the Governmental Research Conference before this publication, it is to be considered only as a tentative basis for discussion. It has been deemed inexpedient to incorporate a complete budget procedure into a constitution inasmuch as the experience of states with such procedure has been incomplete and inconclusive with the result that any detailed proposal must be amenable to frequent change, not possible in fundamental law.

A model budget act, based upon the following constitutional provision, has also been prepared.

The needs of all state departments and agencies, and of other agencies requesting support from the state, for each ..... period, shall be ascertained and appropriations therefor recommended by the governor to the legislature not later than the ..... day of each regular session. Such recommended appropriations shall be considered by a joint committee of the legislature, and no appropriations, except emergency appropriations recommended by the governor, shall be considered until the appropriation bill proposed by the governor and as amended by the legislature shall be enacted. The legislature shall make no appropriations for any fiscal period in excess of the estimated revenues of the state for that fiscal period. The legislature shall not amend the appropriation bill proposed by the governor, except to increase or decrease the requests of the legislature, to increase the requests of the judiciary, or to decrease other items, unless such amendments are included in a single separate bill, and the total of the combined bills is within the estimated revenues of the state, or the supplementary appropriation bill makes specific provision for the revenues necessary to make it effective. No bill making an appropriation of money, except these two bills, shall contain more than one item of appropriation, and that for one single and certain purpose, to be therein expressed. The legislature, by appropriate legislation, shall make this act effective.

V

PROPOSAL FOR JUDICIARY PROVISIONS

BY AMERICAN JUDICATURE SOCIETY

In drafting a judiciary article for a state constitution there are two dominant principles to be embodied, namely:

1. The Supreme Court (meaning the court of last resort) must be protected in its power to pass finally upon the constitutionality of acts of the legislature.

2. The constitution must recognize the necessity for unifying all the courts of the state in a single judicial organization, hereinafter called the General Court of Judicature.

Taking up the first of these requirements it may be observed that the power of the State Supreme Court to pass upon the constitutionality of acts of the legislature exists in every state and must be accepted as a settled doctrine of our form of government. This prerogative is protected by fixing in the constitution the organization of the Supreme Court, its jurisdiction, the mode of selection and retirement, the tenure and salaries of its judges.

(a) *The number of judges:*

The constitution should prescribe the number of judges in the Supreme Court. This prevents the packing of the court by an increase in the number by the legislature. The number can be any odd number from three to seven. The following draft assumes seven as a number convenient to the needs of most states.

(b) *The jurisdiction of the court:*

The most important point here is the protection of the court's jurisdiction over all causes involving the validity of an act of the legislature, or the construction of the Constitution, or the invalidity of the acts of any officer or department of government by reason of any prohibition of the Constitution.

At present it is usual to force an appellate jurisdiction upon the Supreme Court in special classes of cases such as criminal cases, or cases in which a franchise or freehold is involved. It is one thing, however, to *protect* the Supreme Court in its jurisdiction and quite another thing to *force* jurisdiction upon it so that in any class of cases specified every litigant has a right to go on to the Supreme Court. It would seem sufficient if the Constitution conferred upon the Supreme Court all appellate jurisdiction and then provided that (except in cases where the validity of an act of the legislature, or the construction or application of the Constitution was involved) the Supreme Court might limit the exercise of such jurisdiction as in its discretion it determined by general rules entered upon its records. This would enable the court fully to take care of the situation where an intermediate Appellate Court was created and where it was desired that its judgment be final, unless the intermediate Appellate Court certified the case up for a decision by the Supreme Court or the latter required the case to be sent up by a writ of certiorari.

On the other hand, it is not desirable to give any court the unrestricted power to refuse jurisdiction. Hence any limitation upon the exercise of jurisdiction by the Supreme Court should be subject at all times to be repealed wholly or in part by the legislature.

The constitutional provisions are drafted in accordance with these views.

(c) *Mode of selecting and retiring judges of the Supreme Court:*

It is necessary that this be settled by the constitution. What provisions shall be made depends upon what conclusion is reached in regard to the selection and retirement of judges generally.

(d) *Salary:*

So far as associate justices of the Supreme Court are concerned, it is only necessary to fix their salary subject to be changed by the legislature, but not to be diminished during the continuance of the associate justices in office. With regard to the Chief Justice, his salary should be fixed subject to be changed by the legislature, but not diminished or increased during his term of office.

THE UNIFIED STATE COURT

The most valid objection to existing state constitutions, from the standpoint of the administration of justice, is that they provide a general scheme of inferior courts and place this scheme beyond the power of the legislature to alter to any material extent. This has been done largely through adherence to custom. The only claim which can be made for the plan is that it promotes uniformity, but in a number of states it has not prevented the spawning of numerous inferior special courts. North Carolina, for instance, has over 100 special municipal courts, Wisconsin has 32, and many other states have found it necessary to depart from the uniformity which their constitutions contemplated.

The present need is seen to be not mere uniformity, but unification of all the courts of the state, in a single administrative system. Any judiciary article drafted at this time must recognize this insistent need, either by providing directly for a General Court of Judicature, embracing all the judicial units of the state in a unified system, or by leaving the subject in the hands of the legislature for subsequent action.

If the constitution makers accept the plan of a unified court the most convenient way is to submit such a plan as a schedule to the constitution, and this draft is adapted to such a decision.

The tying of the hands of the legislature has held back for a generation many needed improvements and experiments in the organization of our courts, the methods of handling judicial business and methods of selecting and retiring the judges. In spite of great changes in the social structure and the increasing demands upon the courts, nothing substantial could be done to improve the judicial machine. While the amendment or revision of the Constitution has waited, the administration of justice and the efficiency of the courts has declined.

It is believed that a desirable uniformity in the organization of our courts may be obtained without placing the subject-matter of the organization of the inferior courts beyond the power of the legislature. If at the time the Constitution takes effect there should come into operation along with it a complete scheme for a unified court for the entire state, then a desirable uniformity will be secured by reason of the fact that the needs of the state will have been met in a complete and comprehensive way. It is believed that the fact that such a scheme is fully subject to the power of the legislature, so far as the inferior courts are concerned, will not in the long run militate against the uniformity achieved by the comprehensive plan.

Pursuant to these views the draft is to be supplemented, as a schedule of legislation, by an act providing for the establishment of a General Court of Judicature for the entire State. By this means there is provided a complete system of courts for the State and only that part of the plan which relates to the essential features of the Supreme Court is placed beyond the power of the legislature.

The General Court of Judicature is briefly described as a judicial system embracing all the judges of the state, created for the purpose of unifying administrative control. It has three grand divisions:

(a) The Court of Appeal. In this division all judges exercising appellate jurisdiction are organized to permit of a unitary administration of the appellate function. In states populous enough to have intermediate appellate courts it combines the judges of these courts with the Supreme Court justices. The justices of the Court of Appeal are to sit in divisions and the Supreme Court, with its special prerogative, is a fixed division of the Court of Appeal.

(b) The Superior Court. This is the trial court of general jurisdiction. It is to have, in all but the smaller states, several territorial divisions, each with its presiding judge.

(c) The County Courts. In each county there is to be a county judge with limited jurisdiction in civil and criminal matters, and administrative control of local magistrates.

The General Court of Judicature is to be managed by its Judicial Council, composed of the Chief Justice of the State, as the chief executive officer of the General Court, one or more representatives of the Court of Appeal, the Presiding Judges of the Superior Court and the Presiding Judge of the County Court. The Judicial Council is given large rule-making and administrative powers by the act which creates it.

The draft judicature act, with full explanatory notes, has been published as Bulletin VII–A by the American Judicature Society, 31 West Lake street, Chicago.

Article .....

JUDICIAL DEPARTMENT

Section 1. The judicial power vested in a Supreme Court and inferior courts) The Judicial power of the State shall be vested in

1. One Supreme Court, and

2. In such inferior courts or other authorities[1] as the legislature may from time to time ordain and establish;

3. Provided, however, that the legislature shall have power and authority to place the judicial power of the State in a single General Court of Judicature, in which the Supreme Court.

a. Shall be a division of the Court of Appeal, and

b. Shall have all the power and authority, and shall be organized and constituted, as is by this Constitution provided for the Supreme Court.

Sec. 2. Jurisdiction of the Supreme Court) The Supreme Court shall have original (but not exclusive) jurisdiction in all cases

1. Relating to the revenue;
2. In quo warranto;
3. Prohibition;
4. Mandamus;
5. Certiorari;
6. Injunction;
7. Habeas Corpus, and
8. Other original remedial writs, and in
9. All causes involving the validity of an act of the legislature or the construction and application of the Constitution; and
10. Shall assume and exercise the same in its discretion, or as it shall by rules of general application prescribe and enter upon its records.

Sec. 3. Appellate jurisdiction of the Supreme Court) The Supreme Court shall have appellate jurisdiction

1. In all cases, and

2. (Except in cases involving the validity of an act of the legislature or the construction and

application of the Constitution) shall assume and exercise such appellate jurisdiction, according to such rules of general application, as it shall in its discretion prescribe and enter upon its records:

3. Provided, however, that any limitation upon the exercise of its appellate jurisdiction shall be subject to be repealed wholly or in part by act of the legislature.

Sec. 4. Original jurisdiction incidental to appellate jurisdiction) For all the purposes of and incidental to

1. The exercise of any appellate jurisdiction by the Supreme Court, and

2. The amendment, execution and enforcement of any judgment or order made upon the exercise of any such appellate jurisdiction, and

3. For the purposes of every other authority given to the Supreme Court by this Constitution or any act of the Legislature the said Supreme Court shall

1. Have all the power, authority and jurisdiction vested in any inferior court, and

2. Exercise the same according to such rules of general application as it shall in its discretion prescribe and enter upon its records.

Sec. 5. Judges of the Supreme Court. The Supreme Court shall consist of

1. A Chief Justice, and

2. Six associate justices (except as hereinafter provided).

3. Four shall constitute a quorum, and

4. The concurrence of four shall be necessary to every decision.

5. Provided, however, that whenever the validity of an act of the legislature or the construction and application of the Constitution shall be in question the concurrence of five shall be necessary to a decision.

Sec. 6. Who eligible to be a judge of the Supreme Court) Except as hereinafter provided, no person shall be eligible for the office of Chief Justice or associate justice of the Supreme Court.

1. Unless on the day of election, or appointment, as the case may be, he shall be

a. At least thirty-five years of age, and

b. Not over sixty-five years of age, and

c. A citizen of the United States.

2. Nor unless he shall have

a. Resided in the State for ten years, and

b. Been during that time engaged either

(1) In active practice at the bar, or

(2) In discharge of the duties of a judge of a court of general jurisdiction, or

(3) In one of said occupations a portion or portions of such time, and in the other the remaining portion or portions of such time.

Sec. 7. Election of Chief Justice) At the time of voting on the adoption of the Constitution the Chief Justice shall be elected by the electors of the State.

Sec. 8. Who eligible) All members of the Supreme Court at the time of such election, and all persons fulfilling the requirement set forth in Section six of this article shall be eligible to such election to the office of Chief Justice.

Sec. 9. Office of associate justice of the Supreme Court to cease in case one of the present justices of the Supreme Court is elected Chief Justice). If one of the members of the Supreme Court at the time of such election shall be elected Chief Justice and shall enter upon the office of Chief Justice, his office as associate justice of the Supreme Court under the provisions of this Constitution shall cease and determine.

Sec. 10. Term of office of the Chief Justice) The Chief Justice elected at the time of the adoption of this Constitution shall hold his office until his successor shall be elected and qualify. Thereafter the term of office of the Chief Justice shall be four years.[2]

Sec. 11. Time of subsequent elections of Chief Justice) The second election of Chief Justice shall be held upon the Tuesday next after the first Monday in November, 19.., and a new election shall be held on the Tuesday after the first Monday of November every ..... years thereafter.

Sec. 12. Nomination and election of Chief Justice) Until otherwise provided by the legislature, or by any schedule of legislation attached to this Constitution and adopted with it, the Chief Justice shall be nominated and elected, as nearly as may be, in the manner provided for the nomination and election of governor.

Sec. 13. Special election of Chief Justice) If the office of Chief Justice shall become vacant during any term hereinbefore specified and more than one year prior to the expiration of said term, then

1. A special election shall be held to fill the office of Chief Justice during the remainder of the unexpired term.

2. Until the legislature shall otherwise prescribe,

a. The time for holding such special election shall be determined by the proclamation of the governor of the State, filed with the secretary of state not less than sixty days after the time when such office of Chief Justice shall become vacant, and

b. Nominations for the office of Chief Justice at such special election and the mode of conducting the same shall be in accordance, as nearly as may be, with the laws in force for the nomination and election of Chief Justice.

Sec. 14. Special powers given to legislature) The legislature shall have powers to provide:

1. That any Chief Justice who shall not succeed himself as Chief Justice at the expiration of any term hereinbefore specified (whether he shall have served the full term or any remainder of an unexpired term and whether he shall have been a candidate for re-election or not) may, by so expressing his intention in writing to his successor as Chief Justice, within thirty days after the election, continue to be a judge upon the same terms as to tenure, removal and retirement from office as associate justices of the Supreme Court; and

2. That such ex-Chief Justice may be assigned by his successor in the office of Chief Justice to perform judicial duties

a. In the Supreme Court in place of any member thereof absent through illness or for any other cause, or

b. In any other court having appellate jurisdiction, or

c. In any court having a general jurisdiction at law and in equity, or

d. In any division thereof.

3. That any Chief Justice for the time being may assign any judge of any court having appellate jurisdiction, other than the Supreme Court, or any judge of any court having general original jurisdiction at law and in equity, to perform judicial duties in the Supreme Court in place of any member thereof absent through illness or for any other cause.

Sec. 15. First associate justices of the Supreme Court and term of office) The first associate justices of the Supreme Court [meaning thereby the highest appellate tribunal of the state] at the time when this Constitution takes effect, other than such one, if any, as may be elected and enter upon the office of Chief Justice.

The term of office of each of said associate justices shall be the same as it was before the taking effect of this Constitution and shall expire on the day when the same would have expired, according to law, before the taking effect of this Constitution.

Sec. 16. Filling vacancies among associate justices) When the office of associate justice of the Supreme Court shall become vacant it shall be filled by the appointment of the governor by and with the consent of the senate and the justice so appointed shall hold office until retired in the manner herein provided.

Sec. 17. Vacancies—when deemed to exist) No vacancies shall be deemed to exist among the associate justices of the Supreme Court until the number thereof shall have fallen below six.

Sec. 18. Salaries of Chief Justice and associate justices) From and after the adoption of this Constitution the Chief Justice shall receive a compensation of ..... dollars per annum, and each associate justice of the Supreme Court a compensation of ..... dollars per annum, payable monthly, until otherwise provided by law. Provided, however, that the compensation paid to any associate justice of the Supreme Court while in office shall not be diminished during his continuance in office. And provided, also, that the salary of the Chief Justice shall not be increased or diminished during any term for which he shall have been elected.

Sec. 19. Impeachment) Any judge may be removed from office by impeachment in the manner provided in or authorized by this Constitution for impeachment.

Sec. 20. Legislative retirement) The general assembly may, for cause entered upon its journals, upon due notice given and opportunity for defense, remove from office any judge upon the concurrence of two-thirds of all the members elected to each house.

Sec. 21. Retirement of associate justices by popular vote[3]—submission of names to the electorate. At every election (whether regular or special) at which a chief justice shall be elected, there shall be submitted to the electors of the state:

1. The names of all judges of the Supreme Court who have held office continuously for at least three years and whose names have not been submitted to the electors under the provision of this section since their appointment;

2. The names of all judges of the Supreme Court who have held office continuously for at

least nine years and whose names have been once only submitted to the electors under the provisions of this section; and

3. The names of all judges of the Supreme Court who have held office continuously for at least eighteen years and whose names have been twice, and twice only submitted to the electors under the provisions of this section.

Sec. 22. Requirements as to ballots. The ballot upon which the names of judges are submitted as aforesaid,

1. Shall be separate from the ballot used in the election of the Chief Justice, and

2. Shall present to the electors the names of the judges submitted

a. In three groups, in the order following:

(1) Those whose names have been submitted twice and twice only and who have served as judges continuously for at least eighteen years;

(2) Those whose names have been submitted once only and who have served as judges continuously for at least nine years;

(3) Those whose names have never been submitted to the electors and who have served at least three years.

b. In each group the names of the judges shall appear in the order of seniority of service. Those who have served the longest shall be placed first. If two or more judges whose names appear have served the same length of time their names shall appear in alphabetical order, those having a surname beginning with the earlier letters of the alphabet being placed first.

c. As to each judge in each group the ballot shall present the question, "Shall he be continued in office?" Following the question shall be the words, "Yes" and "No" on separate lines, with a blank space at the right of each in which the voter shall indicate by marking a cross (X) his vote for or against the retirement of each judge.

Sec. 23. Vote required for retirement of judge) Whenever a number of voters equal to a majority of all those voting at such judicial election for the office of Chief Justice shall vote "No" with respect to any judge whose name is so submitted, such judge shall be retired and his office declared vacant. Otherwise the incumbent shall continue in office, under the terms of the Constitution. Provided, however, that no such judge shall be retired if the number of those voting "Yes" with respect to his continuance in office shall be as great as or exceed the number of those voting "No."

Sec. 24. Power of legislature over retirement election) In other respects the judicial ballot and manner of conducting the judicial election shall be such as the legislature may prescribe.

Sec. 25. System of inferior courts) If upon the adoption of this Constitution there shall be adopted also the schedule hereto attached and entitled "An Act to Create the General Court of Judicature and to Provide for the Practice and Procedure Therein," then until otherwise provided by the legislature in a manner not inconsistent with any of the provisions of this Constitution, the judicial power of the State shall be vested in and exercised by the system of courts provided for in said schedule.

If, however, the said schedule is not so adopted, then until otherwise provided by the legislature in a manner not inconsistent with any of the provisions of this Constitution, the judicial power shall be vested in and exercised by the system of courts inferior to the Supreme Court, provided by law at the time of the taking effect of this Constitution [or amendment to the Constitution].

[1] The object of the words, "or other authorities" is to enable the legislature to vest some judicial power in tribunals and officers that are not called courts or constituted on the whole like courts and thus avoid the defeat of acts establishing commissions because some small portion of judicial authority is given to them. Of course if judicial power is given to any tribunal or officer not a court, that power must be exercised as courts exercise it or any action predicated upon the exercise of such power would not be due process of law.

[2] The office of Chief Justice is made elective for the term provided because under the proposed state judicature act which these constitutional provisions contemplate, the Chief Justice is to have considerable power as the head of the judicial system of the whole state to appoint and fill vacancies among the judges of the courts of inferior jurisdiction.

[3] Sections 21–24 embody all the popular control of judges which is involved in the present plan of electing judges for terms of years. In a large part of the country no plan of selection by appointment would be considered at all without some method of retirement of judges by popular vote.

The method embodied in this draft is equally applicable to the case of the appointed judge and the elected judge. It avoids a strong objection to the usual method of retiring judges by elections, which obliges such judges to run against competing candidates at the end of their terms, and which too often results in thrusting them out of office as the result of a political upheaval caused by national, state or local issues which have nothing to do with the judge's record in office.

VI

OUTLINE OF PROPOSAL FOR INITIATIVE AND REFERENDUM

BY NATIONAL POPULAR GOVERNMENT LEAGUE

Initiative

To apply to both statutes and constitutional amendments. Direct Initiative on petition of 30,000 voters at large. Indirect Initiative on petition of 15,000 voters at large.

Referendum

All legislative acts to take effect 90 days after session adjourns. Petition of 15,000 voters refers law but does not suspend. Petition of 30,000 voters refers law and suspends operation.

Emergency

Two-thirds vote of legislature puts law into immediate operation but does not inhibit referendum. Franchises, etc., specifically exempt from emergency legislation.

General Provisions

Elections. All measures submitted at general elections.

Except that legislature may order special election or governor may order special election in case of urgency or great importance. Voters may order special election on petition of 50,000 on any emergency measure or 75,000 on an initiative.

Ballot Title. May be prepared by petitioners; must be approved by attorney general; subject to court review. Measures submitted by such title.

Petitions. Registered voters only may sign. Genuineness established by affidavit of solicitor. Sufficiency by the secretary of state. If enjoined burden of proof on objector. Supreme court has original jurisdiction and delayed decision does not keep question off ballot.

Majority. All measures decided by the vote cast thereon.

Conflicts. If two conflicting laws are adopted at same election the one having highest affirmative vote becomes law.

Amendment or Repeal by the Legislature. Requires two-thirds vote of legislature on roll-call to repeal or amend a statute enacted by people at polls.

Corrupt Practices. Requires stringent laws against forgery or other corrupt practices either by citizens, or by state officials who fail to observe constitution.

Veto. Governor's veto power does not extend to laws enacted by vote of people.

Publicity. State publicity pamphlet to be mailed voters containing text of measures and arguments for and against each.

Self-Executing. Legislature to supply enabling act, but amendment self-executing notwithstanding.

Local for Cities and Counties. Initiative and Referendum power to be also reserved to the voters of all municipalities and all political sub-divisions of the state which have legislative bodies.

AUTHORS' COMMENT ON INITIATIVE AND REFERENDUM PROPOSAL

Exponents of the short constitution, will object that too much legislative material is included in the outlines of Initiative and Referendum and recall constitutional provisions presented. Theoretically the objection is sound; in practice it has failed. Legislatures

have been notoriously hostile to these instruments and have enacted and attempted to enact restrictions rendering them practically worthless. The demand for the initiative, referendum and recall arose out of the mis-representative character of legislative bodies. This remedy professes to give the voters an independent channel of action. In all essential elements, therefore, the channel must be made independent of obstruction by the mis-representatives it seeks to circumvent. What those elements are experience has demonstrated. They must be made safe from courts as well as legislators. Minor matters may be left to lawmakers.

VII

PROPOSAL RELATING TO STATE, COUNTY, AND MUNICIPAL INDEBTEDNESS

BY SPECIAL COMMITTEE OF ONE. A. N. HOLCOMBE, HARVARD UNIVERSITY

Article XII. Sec. 1 of present Nebraska constitution. *Repeal.*

Substitute section:

"The state may contract debts in anticipation of the receipt of taxes and revenues, direct or indirect, for the purposes and within the amounts of appropriations theretofore made; bonds or other obligations for the money so borrowed shall be issued as may be provided by law, and shall with the interest thereon be paid from such taxes and revenues within one year from the date of issue.

"The state may also contract debts to repel invasion, suppress insurrection, or defend the state in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

"No other debt shall be contracted by or in behalf of this state, unless such debt shall be authorized by law, for some single work or object, to be distinctly specified therein. On the final passage of such bill in either house of the legislature, the question shall be taken by yeas and nays, to be duly entered on the journals thereof, and shall be: 'Shall this bill pass and ought the same to receive the sanction of the people?' No such law shall take effect until it shall have been submitted to the people, and have received a majority of all the votes cast for or against it at such election.

"Any debt or portion thereof contracted by the state, pursuant to an authorization by such a law, shall be paid in equal annual instalments, the first of which shall be payable not more than one year, and the last of which shall be payable not more than fifty years, after such debt or portion thereof shall have been contracted. No such debt shall be contracted for a period longer than that of the probable life of the work or object for which the debt is to be contracted. The money arising from the contracting of such debt shall be applied to the work or object specified in the act authorizing the debt, or to repay such debt, and to no other purpose whatever.

"The legislature shall provide by appropriation for the payment of the interest upon and instalments of the principal of all debts created on behalf of the state, except those created in anticipation of the receipt of taxes and revenues, as the same shall fall due. If at any time the legislature shall fail to make any such appropriation, the treasurer shall set apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such interest, or instalments of principal, as the case may be, and shall so apply the moneys thus set apart. The treasurer may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds."

Sections 2 and 3 of Article XII refer respectively to donations to any railroad or other work of internal improvement, by a city, county, town, precinct, municipality, or other subdivision of the state, and to the giving or loaning of the credit of the state to any individual, association, or corporation.

I propose that these two sections stand without amendment.

AUTHORS' COMMENT ON INDEBTEDNESS PROPOSAL

The principal changes which the proposed amendment would effect are the following:

1. The abolition of the limit on the amount of floating indebtedness.

2. The establishment of a limit on the time in which floating indebtedness, except that incurred to repel invasion, etc., shall be paid.

3. Substitution of a method for authorizing funded debts by popular vote upon a referendum in lieu of the present practice which permits the creation of such debts only by the process of constitutional amendment.

4. Adoption of the requirement that funded debts shall be created only by the issue of serial bonds.

5. Prevention of the issue of long-term bonds to pay for short-lived improvements.

6. Provision of a procedure by which bond-holders may secure payment of obligations in the event of failure by the legislature to make proper provision therefor.

In considering the provision of the constitution relating to debt limitations it is necessary to take account of possible changes in other provisions of the constitution. For example, the establishment of a budgetary system will provide another means of dealing with floating indebtedness which presumably will render the maintenance of the fixed limit on such indebtedness as under the present constitution no longer necessary. The adoption of a simpler process of amending the constitution of the state, also the direct popular initiative and the referendum, affect the operation of any system of debt limitation such as that existing in Nebraska. There is not the same reason for fixing a definite limit in the constitution intended to bind the legislature when a majority of the people can disregard the limit without consulting the legislature and can veto any action which the legislature itself might take.

The proposed amendment, therefore, is intended to eliminate those provisions of the Nebraska constitution relating to debt limitations which have lost much of their original practical importance and to bring the system of debt limitations into harmony with modern conditions of public finance. The proposed amendment follows closely, though not exactly, that portion of the amendment of the constitution of New York State relating to debt limitations proposed by the Constitutional Convention of 1915, but unfortunately rejected by the people of the state. It is not necessary to argue at length for the use of serial bonds instead of reliance upon a sinking fund for the eventual extinction of a debt. The use of serial bonds is both simpler and cheaper than the sinking fund method. The adjustment of the term of the bond to the probable life of the improvement to be financed by the bond issue has been tried in municipal finance and is approved by most students of the subject.

There remains unprovided for the special case of debt created in order to finance revenue-producing improvements or public utilities which would be operated upon a self-sustaining basis. Such schemes, however, should be judged each on its own merits rather than disposed of under any general rule, and the present method of constitutional amendment in Nebraska puts no great difficulties in the way of the adoption of such schemes when approved by public opinion. It does not seem necessary, therefore, to make special provision for them in the constitution.

VIII

PROPOSALS FOR MUNICIPAL CORPORATION PROVISIONS

BY COMMITTEE ON MUNICIPAL PROGRAM, NATIONAL MUNICIPAL LEAGUE

This committee will submit the provisions for Municipal home rule prepared in 1914 and 1915 and accepted by the annual meeting of the National Municipal League in Dayton, November, 1915. The text of these provisions may be found in "A New Municipal Program" in the National Municipal League series: D. Appleton & Co.

DEPARTMENT OF PUBLICATIONS

I. BOOK REVIEWS

WHAT HAPPENED TO EUROPE. By Frank A Vanderlip. New York: The Macmillan Company, 1919. Pp. xviii and 118.

Three months in Europe in the early part of 1919, spent in first-hand study of the conditions existing on that war-swept continent, and in meeting and talking with hundreds of influential people, including statesmen, diplomats, bankers, captains of industry, and labor leaders, could not but leave many impressions and conclusions of general interest in the mind of so well equipped a man as Mr. Vanderlip. This is the justification for the present book, which the author characterizes as "the sort of talk I might give to a friend who cared for my impressions if there were the opportunity to converse at sufficient length." All the internal evidence of the book —calm, artless, photographic, and sincere as it is—carries the weight of authority, and leaves with the reader a definite picture of what the war has done to Europe, not so much on the side of human and physical devastation, but in the chaos that exists, the staggering load weighted on the backs of the people, and the all but insoluble social and economic problems that must be mastered if the wheels of human progress and material tranquility are ever to move smoothly again.

Mr. Vanderlip believes that something more far-reaching and more disastrous than mere bankruptcy has happened—namely, the utter disorganization and paralysis of industrial production. First of all, domestic transportation has broken down. Raw materials cannot be moved to factories. But if they could, the military embargo continues, and raw materials cannot be shipped. And if the embargo were lifted, there is the utter insufficiency of ocean transportation. But even if tonnage were obtainable, there are the difficulties of exchange, the practical impossibility of credit, and the tedious hazard of obtaining an import license. Supposing, however, that a manufacturer could surmount all of these obstacles, he would still have the problems of fuel and labor to meet; the former cannot be obtained or transported in sufficient quantities, and the wage scale for the latter is two or three times what it was before the war. On top of all this there is not only the question of markets that are disorganized, but also in the matter of distribution all the problems of transportation and credits that were involved in obtaining raw materials. This, as Mr. Vanderlip shows, is a general indication of the condition of industry in Europe to-day—a condition with production at its min mum and a vital need at its maximum.

Mr. Vanderlip takes up in separate chapters the problems of transportation, currency, credit, and labor. Little more than a hint can be given here of the state of disorganization he describes. Transportation is so thoroughly broken down that, even if the ports of Europe are amply supplied with food, it will be impossible, he predicts, to prevent another horror of starvation in the spring and summer of 1920. The chaos of currencies he characterizes as enough to make Europe seem like an economic madhouse. Outstanding British government notes amount to one and a half billion dollars, against which there is a gold reserve of only 140 millions. The circulating notes of the bank of France have leaped from 6 billion francs to 34 billion francs; they are at present irredeemable, and all gold has disappeared from circulation. The fiat currency of Italy and Belgium is quite as staggering. But the currency situation in these four countries, Mr. Vanderlip claims, is simplicity itself compared with that of some of the nations on the eastern front, where, as in Poland, there is "a conglomeration of notes more intricate than anything Mr. Paderewski had ever tried to play."

Of international credit Mr. Vanderlip says that credit is so delicate a thing that it is dangerous even to talk about it; yet, he asserts, there is not a credit in Europe to-day that does not need to be weighed and its chance of payment carefully appraised. But, hazardous as this situation is, he maintains that America cannot keep aloof from this problem without endangering the fabric of civilization there, since there is no political safety in Europe anywhere so long as there is left any country unable

to command a sufficient amount of credit at least to make the beginning of an attempt to restart its idle industries.

The labor situation Mr. Vanderlip describes as nothing short of chaos. The path out of this wilderness he commends to American as well as to European employers, and he quotes at length an English "employer of first importance" who lays down as the "five great principles that we must accept," (1) a minimum wage that is really a minimum and not a general wage scale, (2) better working hours, (3) security against unemployment, (4) a larger control of industry by the workers, and (5) a profit-sharing interest for labor.

Mr. Vanderlip weaves into the pattern many lesser difficulties until one begins to wonder whether a more hopeless situation could be imagined. Yet with all the desperate tangles to be unknotted he holds the conviction that it is not hopeless. What happened to Europe is a thing pregnant with responsibility and opportunity for America, even though at present we can have little more than a suggestion of its possibilities. The future of Europe, he asserts, is going to be largely shaped by the wisdom or the lack of wisdom that we in America show in our grasp of European affairs, in the way we seize our world opportunities, and in the sincerity with which we discharge our world obligations and render service where service is due.

The premier capitalist nation, richest in raw materials, practically self-sustaining, with almost limitless agricultural capacity, less disorganized in industry and transportation by the war than any other great nation, America must be the mainstay that supports Europe until that continent can again support itself. How well we play our part, Mr. Vanderlip believes, depends on the degree of wisdom we show in our grasp of European affairs, on our understanding of economic law, on our awakeness to social injustices, and vitally on our adjustment of the relationship of capital and labor; for in the end, he says, the prosperity of a people depends on their capacity for production, which must always be interfered with when workmen are discontented.

Half our ills, he declares, are due to ignorance of economies, and the other half as surely to bad government. The crime of all crimes, involving harm to more innocent people than any other in the whole category of human frailty, is the crime of abusing the privilege to serve. The climax of Mr. Vanderlip's book is in this stirring indictment of bad government as the fundamental cause of all the blood, and tears, and destruction, and desolation that have swept back and forth over agonized Europe for four years. If the nations had been well governed—if wise democratic leaders, instead of autocratic rulers, had been at the head of the peoples of Europe, it never would have happened. And what is going to happen in the next few years—whether the fabric of peace, prosperity, and contentment will be rewoven, or whether famine, desperation, and revolution will follow in the wake of war—depends on whether governments are good or bad. The ills of America Mr. Vanderlip lays at the same door of bad government. Our future status also depends on the quality of our government. If enough Americans could see the endless consequences of sorrow and injustice flowing from the acts of men who fail to recognize the solemnity of a public trust, then Mr. Vanderlip is sure that America could take her true place in world leadership.

RUSSELL RAMSEY.

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AMERICANIZATION. By Carol Aronovici, Ph.D. St. Paul: Keller Publishing Company, 1919. Pp. 47.

Would that the great army of Americanizers, many of whom are taking up their task without training, program, definition, or any other essential except enthusiasm, could read and inwardly digest this sane and scholarly little book! One might almost hope that every one who undertakes this task might have to pass a thorough examination on it before being permitted even to make speeches on the subject, for there is no movement more in danger of being injured in the house of its friends than is that to convert our recently arrived fellow citizens into what we call Americans.

The author modestly says that: "Its main value lies in the fact that it represents a point of view developed through two decades of self-Americanization and of more than a decade of modest effort in the promotion of movements for the Americanization of others." He might have added that it is characterized by a disposition to substitute information for enthusiasm and well reasoned principles for hysteria. There is scarcely an aspect of the movement on which he does not touch to clear it of obscurity and to reduce it to its fair proportion in its relation to other forces and conditions.

THE STREET SURFACE RAILWAY FRANCHISES OF NEW YORK CITY. By Harry James Carman, Ph.D. Columbia University, Longmans Green and Co., Agents, 1919. 259 p. Paper cover. $2.00.

In view of the concerted clamour by the street railway interests throughout the country for higher fares and the sympathetic hearing that has been accorded them in most cases by state utilities commissions, this volume is timely in its presentation, and of peculiar interest and value to the student of public service utility problems of the country. While most of us know in a general way of the graft and scandal that have attended the granting of public service franchises, few realize the extent in time, and the generally prevalent practice of the "art" in the grants of the street railway franchises in New York city.

The first street railway franchise in New York city was granted in 1831 for a term of thirty years. The grant was from the state legislature with the provision that, in case the city streets were used for any part of the line contemplated, the consent of the city authorities would be required.

In New York city, as apparently in most cities of the country, the first street railway franchise grants were much more in the public interest than the later grants after their value became "appreciated" by the "promoters." The author shows that the public interest was fairly well conserved until the period from 1860 to 1897. During this later period, grants were given in perpetuity with little regard to conserving the public interest. There was always more or less conflict between the local city authorities and the state legislature. At one time the state legislature took the franchise granting power, or approval, almost wholly away from the local authorities.

The author treats the subject in different periods, giving the principle dominating features and the main controlling elements in each.

Many reference notes are given throughout indicating the sources from which the information was derived.

An outstanding feature as shown, in reading the work, is the large number of franchise grants, more or less vicious in their nature, which were vetoed by the mayors of the city and the governors of the state and passed by the aldermen or the legislators over these vetoes at different times.

The actual proved and the almost unquestioned suspicion of the improper use of money to secure franchise grants, are some of the notable features shown in the history.

In the light of what has gone before and the present predicament of higher fares and generally inadequate service in street railway transportation, we are constrained to enquire if there is not something radically wrong with the system that has been followed, up to the present.

The volume presented by the author shows a great deal of patient and painstaking effort in looking up and compiling the facts presented. He has given the matter in simple narrative form with here and there some pertinent comment. In addition to the many reference notes given throughout the text, there are five full pages embodied in the bibliography covering: I Bibliographies; II Cases; III Laws; IV Documents; V Newspapers; VI Magazines; VII Pamphlets; and VIII Secondary works.

The index covers four and one half double-columned pages and appears to be fairly complete.

The work should commend itself to every student of government and economics. It should materially assist the citizen of New York City in getting a better grasp of the problem of honest and efficient municipal government as affected by franchise grants to private interests, and it should also inspire and aid him to become a more active and effective factor in working out the City's problems in the interest of the common good.

CHARLES K. MOHLER.

EFFICIENT RAILWAY OPERATION. By Henry S. Haines. New York: The Macmillan Company, 1919. Pp. xiii, 709.

This volume is a rather curious combination of good and bad, interesting and uninteresting. Its title is over-ambitious, for the author discusses railway efficiency in certain chapters only, while the added chapter on war transportation is not directly related to the main subject, although interesting in itself. The author prides himself on up-to-date and accurate statistics, but his material falls short in both respects. It is far from up-to-date, and the tables contain errors, besides being poorly arranged. Arrangement of text material at times leaves something to be desired, and space could be saved through rearrangement and condensation. Mr. Haines makes many suggestions of value, although railway men will be

inclined to take issue with his proposal that boards of directors be placed in charge of rate and labor matters. In his historical treatment of mechanical and engineering progress the author is at his best. Had he confined himself to that field, he would have produced a volume of much greater readability and value.

Taken as a whole, the book bears evidence of being the product of a number of years' work, the final writing being done from notes, many of which were not revised to accord with the latest available facts. Even so, there is much of worth scattered through the volume, and the general student of railway history will find it a convenient reference book on many topics.

J. H. P.

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DANGER SIGNALS FOR TEACHERS. By Dr. A. E. Winship. Chicago: Forbes and Company, 1919. Pp. 204.

Few among those practically interested in education have ever heard Dr. Winship speak without wishing that he would put more of his red-blooded common sense and democracy into black and white. In so doing in his "Danger Signals for Teachers," I am sure he has greatly multiplied the reach of some of the most worthwhile things he has yet said.

In sharp and striking paragraphs, short chapters and big print, he has simply and dramatically forced upon teachers existing factors in American life and education which make for a completer and truer democracy. The demand created by the war for statesmen in education, skill in teaching as the discovering of how a pupil can "dig in," his chapter on "Don't Be Aristocratic," his advocacy of the throwing of all individuals into solution through music, recreation and the drama, his insistence on democracy "for the Cabots, and Lowells as much as for the Lenines and the Trotzkys," the out-of-dateness of the politician in education—all will impress and help the common citizen who ought to be interested in educational issues, quite as much as those to whom it is a professional duty to be interested. That although the book reached me at eleven o'clock at night, I read it through before I went to bed and that I intend to read it through again is the best testimony I can offer of the extent to which it interested me.

A. DUNCAN YOCUM.

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THE HEALTH OF THE TEACHER. By Dr. William Estabrook Chancellor. Chicago, Ill.: Forbes and Co. Pp. 307.

Everything that Dr. Chancellor writes is remarkable—not merely in the sense of being noteworthy, but in that of being unusual. It is not so much that he writes in unexpected fields, as that in anything he writes, he is certain to discover new leads and to give his readers new points of view. All this is true of his new book on "The Health of the Teacher." It treats of everything from the care of the hair to being too successful and obliging or excessively anxious about health. Since it is as practical as it is interesting, it is sure to do much good to its readers in general and to teachers in particular.

A. DUNCAN YOCUM.

II. REVIEWS OF REPORTS

Efficiency and Economy in California.—Students of public affairs will welcome from the state of California the report of the committee on efficiency and economy. The committee appointed by Governor Stephens on November 25, 1918, was composed of eleven men prominent in the official and civic life of the state, and carried on its work through five subcommittees under the chairmanship of Mr. John S. Chambers, Mr. Frank P. Flint, Dr. John R. Haynes, Mr. Marshall DeMotte, and Mr. Edward A. Dickson, respectively. With each subcommittee were associated several eminent men and women representing professional interest, technical skill, and civic understanding. For example the committee on finance, of which Mr. Chambers was chairman, included among others Mr. Anderson, a banker, Mr. McLaughlin, labor commissioner, Mr. Hatfield, professor of accounting, and Mr. Plehn, professor of finance, at the state university, and Professor West of Leland Stanford. Expert and lay opinions were wisely blended in formulating the organization and work program of each proposed department.

The committee early found it impossible or undesirable to attempt a general consolidation that would include absolutely all agencies of state administration. Eight elective officers were eliminated at the outset from consideration. The commission also left out of the proposed administrative structure, the civil service commission, the boards concerned with professional

standards such as the board of medical examiners, the groups having to do with the regulation of financial institutions, commissions charged with local functions, the industrial accident commission, certain bodies with quasi-judicial functions, and a few other agencies.

The remaining branches of the state administration, the commission proposes should be consolidated into ten great departments: finance, trade and corporations, public works, agriculture, natural resources, labor, education, public health, institutions, and social service. Not all of these departments are to be dominated by single heads. The president of the railroad commission is to be head of the department of trade and corporations; the department of health is to be a group of five physicians with the chairman as chief of the department; education is to be administered by a board of five lay-members with the superintendent of public instruction as chief executive; social service is committed to an unpaid board; finance is to have two directors and a board. Collectively, the directors (including two from the department of finance) and chairmen of administrative boards are to form the governor's cabinet.

The criticisms of this proposed structure from the point of view of those who advocate the short ballot and a rigid hierarchy for state administration are so obvious that they need not be reviewed here. Perhaps, as Madison said of our federal constitution, it is useless to try by theoretical standards that which is clearly the outcome of practical considerations. One does not have to be intimately acquainted with the local situation in California to see sticking out at all points of the report compromises due to what the committee believed to be inexorable necessities. The report doubtless represents approximately the amount of consolidation and readjustment which the committee thought convincing to the average citizen and member of the legislature. Whoever starts to pick flaws in the report, therefore, will do well to read John Morley's essay on compromise first. Ardent youths who will have all or nothing had better not read the report at all. Students of government and spectators from other states will watch with interest the fate of the document. Governor Stephens' introductory letter is very lukewarm and it does not appear that he will break any lances with opponents in the political field.

One thing is certain. The committee is to be congratulated on having followed a mode of procedure calculated to draw to its work some of the best talent in the state and on presenting a report which, for directness, simplicity, and clearness of presentation leaves little to be desired. The reader is not overwhelmed by a mass of statistical and descriptive matter. The members of the committee greet him on the threshold with these cheering words: "This is exactly what we propose to do." Charts and diagrams and the survey of existing organization are relegated to the rear.

With Illinois, Massachusetts, Idaho, and Nebraska well on the way toward consolidation, New York reawakening, California taking the subject up, and other states alive to its importance, it would appear that American citizens realize the necessity of making our state governments efficient and able to cope with the perplexing problems in front of them. There are some, as Governor Stevens points out, who persistently aim at "retrenchment calculated to impair and destroy the agencies of government that protect the people from the forces of special privilege"; but by far the greater number interested in the movement for efficiency and economy aim at nothing short of responsible government capable of measuring up to its obligations.

CHARLES A. BEARD.

Why Massachusetts Should Have State Forests, issued by the Massachusetts forestry association, is noteworthy as a pamphlet intended to present to the voters of the state a matter in which an initiative petition, requiring the signatures of 20,000 qualified voters, is being circulated. The Massachusetts pamphlet is full of sound reasons for the adoption of a state forestry program; but it is a safe venture that not one person in ten, into whose hands it is placed, will read its 24 pages, despite the illustrations that have been used to brighten it. Its only fault lies in the fact that it has been prepared from the standpoint of those who are trying to do the convincing, rather than from that of those who are to be convinced.

With the increasing adoption of the initiative and referendum it is of importance that those who invoke these governmental functions should study the most effective means of getting their case before the voters. Doubtless pamphleteering has a useful place in accomplishing the purpose; but such pamphleteering should be undertaken with a clear understanding of the psychology of the printed appeal.

NOTES AND EVENTS

I. GOVERNMENT AND ADMINISTRATION

Philadelphia's "Pay-as-You-Go" Charter Clause Upheld by Supreme Court.—The "pay-as-you-go" provision in the new Philadelphia charter has been sustained by the state supreme court in a taxpayer's suit attacking three general and special city loans amounting to $127,495,000. These loans were approved by the voters before the new charter became effective in July; but the bonds have not yet been issued. The court upheld the loans as far as they are intended for permanent improvements, invalidating only those items to be used for deficiencies in current expenses, including street repairs. It will be necessary, however, for the city government to reconstruct the loans in accordance with the new charter requirements. While this involves delay and inconvenience, the decision is received by friends of the charter as a notable victory for the principle of sound municipal finance. Only those who consistently opposed the new charter are complaining that the tax rate may have to be raised. If it is not high enough to pay current expenses under an economical administration it ought to be raised. The fact that the city must now put its hand in its own pocket to pay its expenses is a good omen for future economy.

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Home Rule Charter-Drafting Proposals for Kansas City.—The Missouri legislature has adopted for submission to the voters of the state in 1920 an amendment changing the existing sections of the constitution under which cities of a class including only Kansas City are authorized to frame and adopt their own charters. (St. Louis already operates under sections of the constitution adopted for its special benefit.) The important changes proposed by the present amendment are: (1) That the question of charter revision may be submitted by initiative petition as well as by action of the city council. (2) That commissioners to draft a charter shall be nominated by petition and elected by a non-partisan ballot. (3) That a charter may be adopted by a majority vote instead of a four-sevenths vote. (4) That a charter shall not be required to make provision for a mayor, a chief magistrate, and a bicameral council. This amendment, which will be submitted to the voters at the election in November, 1920, will, if approved, make it possible for Kansas City to adopt the city manager plan, for which there has been considerable agitation.

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Special-Fund Law Violated to Maintain Ohio State Government.—One of the consequences of Ohio's acute financial situation was vividly shown when the state auditor declared in his recent annual report that if he had not violated the law last August every educational, benevolent, correctional, and penal institution, and many other state departments, would have been forced to suspend for lack of funds. According to the report, the state treasury was technically and legally, though not actually, bankrupt by $581,743 because the $2,174,622 actually on hand belonged to special funds which the law provides shall be used only for the purposes for which they were raised. Only by temporarily transferring some of these funds to the general revenue fund, despite the legal prohibition, the auditor declares, was it possible to keep the state government functioning. He affirms that the necessity for such an illegal course is infamous, and asks the governor to recommend to the legislature that the law be changed by the abolition of all special funds, of which 24 are enumerated, except the sinking fund. The consolidation of all state monies into two funds—general revenue and sinking—the auditor's report states would save much unnecessary bookkeeping and the necessity of violating the law in future emergencies; it would work no injury because special funds cannot be used for special purposes until the money is actually appropriated by the legislature; and it would clarify the fiscal problem and enable the state fathers to cut the financial garment more in keeping with the financial cloth. As a corollary, the auditor recommends a single, direct state tax levy instead of separate ones for universities, common schools, highways, and the like.

Modified Manager Plan Suggested for Cleveland.—The late Tom L. Johnson's statement that "the ideal committee is composed of three men—two of them dead," is recalled by the plan recently proposed in Cleveland (Ohio) for the creation of a city manager who shall be appointed by the mayor rather than by the city council. This plan is the recommendation of a committee of 15 appointed by the action of 25 representative Cleveland organizations to investigate and report on the city-manager plan of government for Cleveland.

The committee reached the conclusion that the mayor would make a better selection of manager than the city council because it believes the grade of manager selected depends largely on the intelligence, integrity and personality of the selecting agency, and that a mayor selected by popular choice is likely to be of a higher type than the average member of the council. The committee also contends in its report that the mayor, standing alone, will feel a greater responsibility to make the best choice of manager than would individual members of the council, who might seek to shift to others the blame for a bad appointment. It is also held that the experience of other cities with the city-manager plan is of no dependable value to Cleveland since none of them is comparable with it in size.

The committee recommends that the city manager be charged with the administrative functions of the city government and that his term of office be indefinite. The mayor, on the other hand, would be the personal head of the government, with power to determine policies, would hold office for four years, subject to popular recall, and would be inelligible to succeed himself. The committee recommends that the city solicitor and auditor be appointed by the mayor, and the city treasurer by the city manager.

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Notable Triumph of Commission-Manager Plan in Altoona (Pa.).—For two years Altoona has been operating under a city-manager form of government made possible by a provision of the Clark act of 1913 which permits the city commissioners to create any offices they choose and pay the employes of such offices. This clause was invoked in 1917 when the chamber of commerce conducted a campaign leading to the nomination and election of the present four commissioners, each of whom was pledged to accept a nominal salary of $500 annually, instead of the maximum of $2,500, in order to make possible the employment of a capable city manager. Since that time the legislature has abolished the law providing for a non-partisan ballot in third-class cities; but when the four commissioners (two Republicans and two Democrats) came up recently for re-nomination, all of them, with no effort on their part to solicit votes, were decisively named on the Republican ticket and three of them also on the Democratic ticket. To cap the climax, a Democrat received the highest number of votes on the Republican ticket, and a Republican received the highest number of votes on the Democratic ticket.

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Automatic Repeal of Laws.—The Pennsylvania "blue law" of 1794, regulating the manner of observing the Sabbath, has long been a source of strife between those who recognize no evolution in standards set up 125 years ago and those who do. Recently this law was resurrected for the prosecution of an aviator who accepted money for carrying passengers on Sunday—an incident which those who drafted the law could hardly have intended it cover. Many other instances of the fettering of the present by the legal enactments of the past have their serious as well as their humorous aspects. The present instance has drawn from Walter A. May, of Pittsburgh, a suggestion which is perhaps brand new and worthy of consideration. Mr. May proposes that every law or ordinance—state, federal, or local—should carry its own expiration date, so that the continuance of its force after such a date would require its re-enactment, and consequently the reconsideration of its pertinence to the needs of the time. From the witchcraft laws to such things as traffic regulations, with the whole gamut of subjects between these extremes, there are many evidences of the value of having the automatic death sentence applied.

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Two Million Housing Fund for St. Louis.—A $2,000,000 housing association to build homes at reasonable prices in St. Louis, has been formed with the backing of the chamber of commerce, the Commercial club, and other organizations.

The association's capital will be raised by stock subscriptions, preferably from the owners

and officials of manufacturing plants and large industries. As soon as $1,000,000 is subscribed, the organization will purchase land adjoining industrial sections of the city and prepare its building plans. The houses are to be sold on small cash payments to people of moderate means, and will be paid for in installments covering a period of fifteen or twenty years. The association, it is announced, is not formed for profit.

II. POLITICS

The Philadelphia Mayoralty Election.—Philadelphia has had two important elections within a space of six weeks. The first was the primary on September 16, when the independents made their fight within the Republican party. The mayoralty candidate supported by the independents and the Republican alliance, composed of the best elements of the Republican party, defeated the Vare organization candidate by 1,313 votes. The conclusion to make the fight at the primary was based upon the fact that Philadelphia is an overwhelmingly Republican city and that previous efforts to elect an independent candidate had generally failed because of that fact. It is true that in 1911 Blankenburg was elected mayor on an independent ticket, but that was largely due to the defection, or perhaps it would be more accurate to say the inaction, of the defeated faction in the Republican party.

The result of the primary broke the power of the Vare organization which had locally been dubbed "the prussians" largely because of the methods followed and of the lack of a clear understanding of the human elements involved.

A number of ward leaders who had been affiliated with the Vares for four years, because they were the dominant leaders in the Republican party, at once declared themselves for the successful candidate and thus assured the election. The Vares had practically no other course than to turn in for the successful candidate, as there was none other whom they could support with any hope of success. At one time there was a rumor that they would knife certain candidates on the Republican ticket; but the independent forces made that impossible, so that at the election on November 4 the successful candidate at the primaries was elected by a plurality of 190,000 and a majority of 174,000, breaking all records. He carried with him all the candidates nominated at the primary, including a majority of the new council of 21 provided for in the new charter.

The successful candidate, Hon. J. Hampton Moore, has been a member of congress from Philadelphia for many years. Before that he was city treasurer and has held various other municipal and public offices. He is a man of independent type, although disposed to be regular in his party affiliations. While he is known as a politician, he is one of the cleaner sort, having a reputation for clean methods and hard hitting. He has an enviable record for attention to duty and he has always possessed the respect of his colleagues and co-workers. He has unqualifiedly endorsed the new charter and he has promised to carry it out in the spirit in which it was conceived. It is generally believed he will be more successful in his administration than Mr. Blankenburg because of his more intimate knowledge of politics and politicians. During the campaign he stressed the public welfare features of the new charter and he has generally ranged himself on the side of the progressives, not in any strong language, but in a way to make even the most cautious feel that he will make a real effort to give a sympathetic administration of the new charter.

Mr. Moore's opponent in the primary is a judge of the common pleas court, the Hon. J. M. Patterson, a man of unusual personality and a born vote-getter. His strength as a candidate, however, was not sufficient to overcome the strong opposition to the Vare organization, which has already begun to disintegrate.

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Dayton's Vindication of Commission-Manager Government.—It may be confidently asserted that the commission-manager form of government is to-day more firmly rooted in Dayton than at any time since its inception in January, 1914. In fact, I doubt if even the enemies of the present régime seek an abandonment of the *form* of government. What they desire is that the plan shall remain intact, but that they be put in power instead of those placed there by the majority vote of our citizenship. The reason is obvious. Under our charter authority, power and responsibility are narrowed down to five men, and by them delegated to one—the manager. This is Utopian so long as the five com-

missioners are capable, fair-minded and honest. But, substitute for three of those five honest men three who are taking their orders from an unseen source, and good government would be doomed.

The result of the last primary and of the general election shows clearly that Dayton citizens have confidence in their government as at present constituted, and that they want their governmental decisions made in open court within the city hall rather than in some obscure meeting hall where the atmosphere is tainted with other considerations than that of good government. The two gentlemen who came out of the contest victorious had the endorsement of the citizens' committee, which is a continuation of the group that launched the commission-manager form of government in Dayton. One of the two successful candidates was already a member of the city commission, and has now been approved by the people for an additional term. The other is known by his civic record to be a champion of the right of any question as he sees it, regardless of party affiliations. In fact, I do not know at the present moment what his political tendencies are. Certain it is that he was elected by all the people and not by any partisan favor.

At various times, both in the heat of election campaigns and in the intervals between, the accusing finger has been pointed at Dayton's form of government and the charge made that through its operations the city has been brought to the verge of financial difficulties. Nothing is more injurious than a half truth. It is to be lamented that Dayton does lack the funds to carry on its functions properly, but the blame for that cannot be laid at the door of the commission-manager form of government. Rather might it be praised for accomplishing as much as it does with the funds at its disposal. It displays efficiency in poverty rather than inefficiency in affluence. Henry Waite, our first manager, began operations with the determination that the city should live within its income, *i. e.*, should not issue bonds for current expenses. This policy was successfully adhered to and an impressive inherited debt was gradually being paid off. What happened to Dayton's finances during the war is only what happened to all the cities of Ohio. It has no relation whatever to the commission-manager government, but rather, as has been repeatedly shown, to the limitations of the pernicious Smith one-per-cent law—a political chestnut which neither the Republicans nor Democrats seem willing to pull out of the fire for fear of the rural voters.

J. B. Gilbert.

The November Elections.—This being an off year generally in state elections, the voting was confined principally to local issues, though five states balloted for governors, while six others had minor offices and referendum questions to decide. At the time this is written it is impossible to make a comprehensive survey of the results, but it may be said that the outstanding feature was the re-election of Governor Coolidge by about 124,000 plurality. The result was accepted nationally as a vindication of the governor's attitude toward the Boston police strike. The whole Republican state ticket was elected in Massachusetts, and the legislature continues Republican by a slightly reduced, but still substantial, majority.

State Senator Edwards, the Democratic candidate for governor of New Jersey, was elected over the Republican candidate by a good margin, his success being attributed largely to the feeling in the state against the federal prohibition amendment and against the stand of the Republican utilities commission in the zone fare controversy. The legislature, however, was reported Republican.

The gubernatorial elections in Maryland, Mississippi, and Kentucky were carried by the Democrats in the first two states named, and by the Republicans in the last. The Democrats also carried the Maryland legislature, while in Kentucky the legislature is Republican and the state prohibition amendment is adopted.

In Ohio the classification amendment—part of the program for municipal tax reform—was defeated by over 100,000 votes. The popular referendum on the legislature's approval of the federal prohibition amendment apparently reverses that action by such a small margin that a recount is probable.

Tammany was defeated after a warm fight for the presidency of the New York city board of aldermen, F. H. La Guardia, Republican, being elected by less than 1,400 votes. Its judicial backer was also defeated.

Republicans will dominate the Illinois constitutional convention. Reports are not at hand on the referendum vote to instruct the convention on the questions of the initiative and referendum and the municipal ownership of public utilities. Chicago voters defeated the proposi-

tion to re-district the city and reduce the membership of the city council.

The new mayor of Troy (New York) is James W. Fleming, nominated as a compromise candidate suggested by ex-Mayor Burns when the latter withdrew from the contest after serving eight years. The new official has a colorless record.

In Rochester (New York) Mayor Edgerton was re-elected for the seventh time, an indorsement of a straight-forward, efficient administrator. As the outcome of the new city-manager charter in Memphis (Tennessee) the citizens' ticket carried into office a mayor and four commissioners who have never been in politics before.

Four of the seven commissioners of Kalamazoo (Michigan) were re-elected, and two candidates for re-election were defeated. A proposed bond issue failed to receive the necessary three-fifths approval by 595 votes.

Springfield (Ohio) defeated, by a majority of 3,300 in a total vote of 10,900, two of the present commissioners who were running for re-election, two union labor men being chosen in their place. There were a number of contributing factors, among them the present labor unrest, the citizens' feeling that the employer class was more largely represented than the employe, and the unpopular increase in the street car fare from five cents to nine tickets for fifty cents.

The noteworthy mayoralty election in Philadelphia is treated elsewhere, while other elections deserving mention will be noted as soon as definite reports have been received.

Cincinnati's Four-Year Mayoralty Term Upheld.—At the election of November, 1917, Mayor Galvin of Cincinnati was elected under the state law for a term of two years. At the same election a charter was adopted which provided that the mayor elected at that time should serve for a four-year term. Recently the question was raised whether the charter could give the original two-year election a four-year effect. The issue was taken into court, where the charter provision was upheld.

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